



Backgrounds of Selective Service

VOLUME II • PART 10

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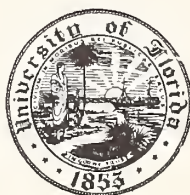
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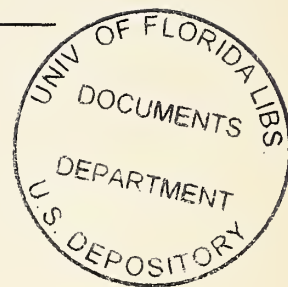
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BACKGROUNDS OF SELECTIVE SERVICE



Military Obligation:

THE AMERICAN TRADITION

*A Compilation of the Enactments of Compulsion
From the Earliest Settlements
of the Original Thirteen Colonies in 1607
Through the
Articles of Confederation 1789*

SPECIAL MONOGRAPH NO. 1

VOLUME II

PART 10. NORTH CAROLINA ENACTMENTS

THE SELECTIVE SERVICE SYSTEM

1947

CLEARANCE COMMITTEE

BRIG. GEN. CARLTON S. DARGUSCH, *Chairman*

COL. VICTOR J. O'KELLIHER

LT. COL. ARTHUR BOONE

COL. LEWIS F. KOSCH

LT. COL. IRVING HART

COL. WILLIAM HART

MR. KENNETH H. MCGILL

PREPARED AND COMPILED BY

LT. COL. ARTHUR VOLLMER

GOVERNMENT PRINTING OFFICE

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PRINTING OFFICE, WASHINGTON 25, D. C.

North Carolina

Year	War	Class I Provisions	Class II Provisions	Notes
1605				
1610				
1615				
1620				Class I Provisions are defined as general enactments of compulsion; laying obligation on citizenry, or for duty in common militia, or both.
1625				Class II Provisions are defined as drafts of members of militia and other organizations, or of citizenry, on specific occasions, or for specific purposes.
1630				Numbers in parentheses identify Statutes reproduced in this Compilation and referred to in the Digest.
1635				Dates preceded by "ca" are approximate.
1640				
1645				
1650				
1655				
1660				
1665		(300) 1665		1584 Chartered by Queen Elizabeth to Sir Walter Raleigh.
1670		(264) 1669		1630. Grant to Sir Robert Heath, "declared void in 1663, because the purposes for which it had been granted had never been fulfilled."
1675				1663. Charter of Carolina by Charles II to Earl of Clarendon, the Duke of Albemarle and others as "absolute lords proprietors."
1680				1665. Second charter by Charles II to Earl of Clarendon, the Duke of Albemarle and others, as "true lords and proprietors," enlarging previous grant.
1685				1665. First legislative body called "The Grand Assembly."
1690	1689 KING WILLIAM'S			1669. Fundamental constitutions of Carolina, framed by John Locke. Only partially put into operation. "It was obviated by the lords proprietors, April 1693."
1695	1697			1710. Colony divided into North Carolina and South Carolina.
1700				1728. Boundary dispute with Virginia settled. Sale of their interests by seven lords proprietors to the crown and surrender by Earl Granville of rights in the government of the colony.
1705	1702 QUEEN ANNE'S			1768. May 1. Great Deed of Grant from the Duke of Albemarle and others, Lords Proprietors, to Samuel Stevens.
1710	1711 TUSCARORA INDIANS			1774. Provincial Congress held at New Bern to elect delegates to Continental Congress.
1715	1713 1715 INDIAN	(272) 1715		1775. Mecklenburgh Resolutions adopted by a convention of delegates from Mecklenburgh County, at Charlotte, May 20, 1775.
1720				1776. December 17. Declaration of Rights adopted.
1725				December 18. Constitution adopted.
1730				1784. State of Frankland formed in North Carolina; terminated 1788-89.
1735				
1740	1739 SPANISH			
1745	1748	(273) 1746		
1750				
1755	1754 FRENCH and INDIAN	(269) 1754 (267) ca. 1755		
1760		(278) 1760		
1765	1763	(280) 1764		
1770	1766 REGULATORS INSURRECTION	(281) 1766		
1775	1771			
1780	1775 REVOLUTION	(283) 1774 (284) 1777 (286) ca. 1778 (291) 1781	(287) 1778 (292, 293) ca. 1779 (296, 289, 299) 1781 (297) 1782	
1785	1783			



THE SECOND
C H A R T E R,
 GRANTED BY
K I N G C H A R L E S, II.
 TO THE
 PROPRIETORS OF CAROLINA.

CHARLES the Second, by the grace of God, of Great-Britain, France and Ireland, King, Defender of the Faith, &c. WHEREAS, by our Letters Patents, bearing date the twenty-fourth day of March, in the fifteenth year of our reign, We were graciously pleased to grant unto our right trusty and right well-beloved Cousin and Counsellor Edward Earl of Clarendon, our High Chancellor of England; our right trusty and entirely beloved Cousin and Counsellor George Duke of Albemarle, Master of our Horse; our right trusty and well-beloved William now Earl of Craven; our right trusty and well-beloved Counsellor John Lord Berkeley; our right trusty and well-beloved Counsellor Anthony Lord Ashley, Chancellor of our Exchequer; our right trusty and well-beloved Counsellor Sir George Carteret, Knight and Baronet, Vice-Chancellor of our Household; our right trusty and well-beloved Sir John Colleton, Knight and Baronet; and Sir William Berkeley, Knight; all that province, territory, or tract of ground, called Carolina, situate, lying and being within our dominions of America; extending from the north end of the island called Ince-Island, which lieth in the Southern Virginia seas, and within thirty-six degrees of north latitude; and to the west, as far as the South-Seas; and so respectively as far as the river of Matthias, which bordereth upon the coast of Florida, and within thirty-one degrees of northern latitude; and so west, in a direct line, as far as the South-Seas aforesaid.

NOW Know ye, That We, at the humble request of the said grantees, in the aforesaid Letters Patents named, and as a further mark of our especial favour to them, we are graciously pleased to enlarge our said grant unto them, according to the bounds and limits hereafter specified, and in favour to the pious and noble purpose of the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, all that province, territory or tract of land, situate, lying and being within our dominions of America aforesaid; extending north and eastward, as far as the north end of Currituck river or inlet, upon a strait westerly line to Wyonoak creek, which lies within or about the degrees of thirty-six and thirty minutes, northern latitude; and so west, in a direct line, as far as the South-Seas; and south and westward, as far as the degrees of twenty-nine, inclusive, of northern latitude; and so west, in a direct line, as far as the South-Seas; together with all and singular the ports, harbours, bays, rivers and inlets, belonging unto the province or territory aforesaid: And also, all the soils, lands, fields, woods, mountains, fens, lakes, rivers, bays and islets, situate or being within the bounds or limits last before mentioned; with the fishings of all sorts of fish, whales, sturgeons, and all other royal fish, in the sea, bays, islets and rivers, within the premises, and the fish therein taken, together with the royalty of the sea upon the coast within the limits aforesaid; and moreover all veins, mines and quarries, as well discovered as not discovered, of gold, silver, gems and precious stones, metal, or any other thing, found, or to be found, within the province, territory, islets and limits aforesaid: And furthermore, the patronage and advowson of all the churches and chapels, which, as Christian religion shall increase within the province, territory, isles and limits aforesaid, shall happen hereafter to be erected; together with licence and power to build and found churches, chapels and oratories, in convenient and fit places, within the said bounds and limits; and to cause them to be dedicated and consecrated, according to the ecclesiastical laws of our kingdom of England; together with all and singular the like and as ample rights, jurisdictions, privileges, prerogatives, royalties, liberties.

A

ties, franchises, and privileges, requisite or usual, or to or within this our kingdom of England granted or belonging; and in the same cities, boroughs, towns, and other places, to constitute, erect and appoint such and so many markets, marts, and fairs, as shall, in that behalf, be thought fit and necessary: And further also, to erect and make in the province or territory aforesaid, or any part thereof, so many manors, with such signories as to them shall seem meet and convenient; and in every of the same manors to have and to hold a Court-Baron, with all things whatsoever which to a Court-Baron do belong; and to have and to hold views of Frank-Pledge and Court-Leets, for the conservation of the peace and better government of those parts, with such limits, jurisdictions and precincts, as by the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, or their heirs, shall be appointed for that purpose, with all things whatsoever which to a Court-Leet, or view of Frank-Pledge, do belong; the same courts to be holden by stewards, to be deputed and authorized by the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, or their heirs, by the Lords of the manors and leets, for the time being, when the same shall be erected.

A N D because that in so remote a country, and situate among so many barbarous nations, the invasions of savages and other enemies, pirates and robbers, may probably be feared; therefore, we have given, and for us, our heirs and successors, do give power by these presents, unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs or assigns, by themselves, or their Captains, or other officers, to levy, muster, and train up all sorts of men, of what condition soever, or wheresoever born, whether in the said province, or elsewhere, for the time being; and to make war, and pursue the enemies aforesaid, as well by sea, as by land; yea, even without the limits of the said province, and, by God's assistance, to vanquish, and take them; and being taken, to put them to death, by the law of war, and to save them at their pleasure, and to do all and every other thing, which to the charge and office of a Captain-General of an army, hath had the same.

A L S O, our will and pleasure is, and by this our charter, we do give and grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, full power, liberty, and authority, in case of rebellion, tumult, or sedition, (if any should happen, which God forbid) either upon the land within the province aforesaid, or upon the main sea, in making a voyage thither, or returning from thence, by him and themselves, their Captains, Deputies, or officers, to be authorized under his or their seals, for that purpose; to whom also, for us, our heirs and successors, we do give and grant, by these presents, full power and authority, to exercise martial law against any mutinous and seditious persons of these parts; such as shall refuse to submit themselves to their government, or shall refuse to serve in the war, or shall fly to the enemy, or forsake their colours or ensigns, or be loiterers, or stragglers, or otherwise offending against law, custom, or military discipline; as freely and in as ample manner and form, as any Captain-General of an army, by virtue of his office, might or hath accustomed to use the same.

A N D our further pleasure is, and by these presents, for us, our heirs and successors, we do grant unto the said Edward Earl of Clarendon, George Duke of Albemarle, William Earl of Craven, John Lord Berkeley, Anthony Lord Ashley, Sir George Carteret, Sir John Colleton, and Sir William Berkeley, their heirs and assigns, and to the tenants and inhabitants of the said province or territory, both present and to come, and to every of them, that the said province or territory, and the tenants and inhabitants thereof, shall not, from henceforth, be held or reputed any member or part of any colony whatsoever in America, or elsewhere, now transported or made, or hereafter to be transported or made; nor shall be depending on, or subject to their government in any thing, but be absolutely separated and divided from the same; and our pleasure is, by these presents, that they be separated, and that they be subject immediately to our Crown of England, as depending thereof, forever: And that the inhabitants of the said province or territory, nor any of them, shall, at any time hereafter, be compelled, or compellable, or be any ways subject or liable to appear or answer to any matter, suit, cause or plaint whatsoever, out of the province or territory aforesaid, in any other of our islands, colonies, or dominions in America, or elsewhere, other than in our realm of England, and dominion of Wales.

A N D because it may happen that some of the people and inhabitants of the said province cannot, in their private opinions, conform to the public exercise of religion, according to the liturgy, forms, and ceremonies of the Church of England, or take and subscribe the oaths and

church or profession any of them shall think best, and thereof be as fully members as any freemen. But yet no slave shall hereby be exempted from that civil dominion his master hath over him, but be in all things in the same state and condition he was in before.

108th. Assemblies upon what pretence soever of religion, not observing and performing the above said rules, shall not be esteemed as churches, but unlawful meetings, and be punished as riots.

109th. No person whatsoever shall disturb, molest, or persecute another, for his speculative opinions in religion, or his way of worship.

110th. Every freeman of Carolina, shall have absolute power and authority over his negro slaves, of what opinion or religion soever.

111th. No cause whether civil or criminal, of any freemen, shall be tried in any court of judicature, without a jury of his peers.

112th. No person whatever, shall hold or claim any land in Carolina, by purchase or gift or otherwise, from the natives or any other whatsoever; but merely from and under the Lords Proprietors, upon pain of forfeiture of all his estate, moveable or immoveable, and perpetual banishment.

113th. Whosoever shall possess any freehold in Carolina, upon what title or grant soever, shall at the farthest, from and after the year one thousand six hundred and eighty-nine, pay yearly unto the Lords Proprietors, for each acre of land, English measure, as much fine silver as is at this present time in one English penny, or the value thereof, to be as a chief rent and acknowledgement to the Lords Proprietors, their heirs, and successors forever. And it shall be lawful for the palatine's court, by their officers at any time, to take a new survey of any man's land, not to oust him of any part of his possession, but that by such a survey, the just number of acres he possesseth may be known, and the rent thereon due may be paid by him.

114th. All wrecks, mines, minerals, quarries of gems and precious stones, with pearl fishing, whale fishing, and one half of all ambergris, by whomsoever found, shall wholly belong to the Lords Proprietors.

115th. All revenues and profits belonging to the Lords Proprietors, in common shall be divided into ten parts, whereof the palatine shall have three, and each proprietor one; but if the palatine shall govern by a deputy, the deputy shall have one of these three tenths, and the palatine the other two tenths.

116th. All inhabitants and freemen of Carolina, above seventeen years of age and under sixty, shall be bound to bear arms, and serve as soldiers whenever the grand council shall find it necessary.

117th. A true copy of these Fundamental constitutions shall be kept in a great book, by the register of every precinct, to be subscribed before the said register. Nor shall any person of what degree or condition soever, above seventeen years old, have any estate or possession in Carolina or protection or benefit of the law there, who hath not before a precinct register, subscribed these fundamental constitutions in this form:

"I, A. B. do promise to bear faith, and true allegiance, to our sovereign Lord King Charles the second, his heirs and successors; and with my utmost power, will defend them and maintain the government, according to this establishment in these fundamental constitutions.

118th. Whatsoever alien shall in this form, before any precinct register, subscribe these fundamental constitutions, shall be thereby naturalized.

119th. In the same manner shall every person, at his admittance into any office, subscribe these fundamental constitutions.

120th. These fundamental constitutions, in number a hundred and twenty, and every part thereof, shall be and remain, the sacred and unalter-

LAWS OF NORTH CAROLINA--1715.

CHAPTER V.

Insert after enacting clause to sec. 2, 23 State Records, p. 3, the following:

That if any person or persons that have bestowed any labor as above-said on any land within the Province shall not repaire to it and seate the same within six months after the publication hereof that it shall and may be lawful for the Governor and Council to lett it out to any other person to do it, The party to whome it is soe lett paying to the first laborer soe much as it shall be adjudged by fower honest men to be worth.

CHAPTER VI.

An Act Exempting New Comers from Paying Levys for One Yeare.

Be it Enacted by the Palatin and Lords Proprietors by and with the advice and consent of the Grand Assembly and the authority thereof that any person or persons transporting themselves and families into this Province to plant and here seate themselves shall be exempted from paying levys for one whole yeare after their arrival, Provided always there be no emergent charge which the Vice-Palatin, Counsell and Assembly shall judge extraordinary.

[Note. The first six acts of 1715, (see 23 S. R. pp. 1-3) including above, known as the "Six Confirmed Acts," were passed in 1669, and were confirmed by Lords Proprietors 20 Jan. 1770. There were 9 of the acts of 1669 of which above 5 were re-enacted in 1715. ED.]

NORTH CAROLINA SS.

At a General Biennial Assembly held at the house of Capt. Richard Sanderson in Little River begun the 17th day of November, 1715 and continued by Several Adjournments untill the 19th of January, 1715.

In the Upper House

The Honble CHARLES EDEN, ESQR
Governor.

The Honble NATHA CHEVIN
WILL REID
XPHER GALE
TOBIAS KNIGHT
FRAN FOSTER
Esqrs. Ld ps Proprs. Deptys.

In the Lower House

Edward Moseley, Esq., Speaker, Capt. Fred. Jones Capt. Nicho. Crisp Capt. Henry Bonner Major Robt. West Mr. Joseph Jessop Mr. Saml. Phelps Mr. Thoc. Spight Mr. Rich Whitbee Mr. Richd. French Callo. Thos Boyd Mr. Edwd. Gale, Mr. John Blyth, Mr. Griffin Jones Capt. Benja. West Capt. Richd. Sanderson Mr. William Swann Mr. William Williams Mr. Thomas Taylor Capt. William Nicholson Mr. John Porter Mr. Thos. Harding Mr. Richd. Jasper Capt. Richd. Graves Mr. David Mcfarland Mr. Martine Franck.

These following Laws being in Number fifty Seven were Read three times and Ratified in Open Assembly.

1. An Act for better observing the Lord's Day, called Sunday, the 30th January, the 29th May and 22nd September.

2. An Act for Establishing the Church and appointing Select Vestrymen.
3. An Act for Liberty of Conscience, And that the Solemn Affirmation of the People called Quakers, shall be Accepted instead of an Oath in the usual forme.
4. An Act Relating to the Bienniall and other Assemblies and Regulating Elections and Members.
5. Coroners Appointed.
6. An Act for the Qualification of Such Officers.
7. An Act to Appoint Constables.
8. An Act Relating to the Justices of ye Court of Comon Pleas and to Prevent the Commissioners and other Inferior Officers of the said Courts Pleading as Attorneys.
9. An Act for Ascertaining the time and method for the Executing and Return of Originall Writs and for the better Regulating Divers Privileges in the Court of Pleas.
10. An Act to Direct the Method to be Observed in the Examination and Commitment of Criminalls.
11. An Act Concerning Evidences.
12. An Act for the Relief of Such Creditors whose Debtors haveing Land in this Government, Depart without Leaving Personal Estate Sufficient to pay the Debt.
13. An Act Concerning Escapes of Persons under Execution.
14. An Act to Direct the Disposal of Goods upon Execution and for the better Regulation of Distresses hereafter to be made for Levys and Quit Rents.
15. An Act Concerning Attorneys from forreign Parts and for giving Priority to Country Debts.
16. An Act Concerning Appeals and Writts of Error.
17. An Act to Prevent the Inhabitants of Bath County bringing Acons in the General Court against one another for less than tenn Pounds.
18. An Act for the Tryall of sniall and mean Causes.
19. An Act for the better Regulating the Militia of this Government.
20. A Form of a Patent.
21. An Act concerning the Titles of Land and for the Limitation of Actions and for avoiding Suits in Law.
- *22. An Act for Preventing Disputes Concerning Lands already Surveved.
23. An Act for Settling and Maintaining Pillotts at Roanoke and Oacock Inletts.
24. An Act for Entering of Vessels and to Prevent the Exportation of Debtors.
25. An Act for raising a Publick Magazine of Ammunition upon the Tonnage of all Vessels trading to this Government.
26. An Act concerning Roads and Ferrys.
27. An Act to Encourage the Building of Mills.
28. An Act to appoint Publick Registers and to direct the Method to be observed in Conveying Lands Goods and Chattells and for preventing fraudulent Deeds and Mortgages.
29. An Act concerning Weights and Measures.
30. Staple Commodities Rated.
31. An Act to ascertain the time for Payment of Pork Wheat and Indian Corn.
32. An Act ascertaining the Gauge of Barrels and to prevent frauds in Pork Beef Pitch or Tarr.
33. An Act to appoint the Marking of Horses, Cattle and Hogs, and to

& Commanded to give due obedience in the Execution thereof according to the true intent & meaning of this Act.

EDW'D MOSELEY,
Speaker.

CHAS. EDEN,
N. CHEVIN,
FRAN. FOSTER,
C. GALE,
T. KNIGHT.

CHAPTER XXV.

(Repealed by Act 4 April, 1740, ch. 12.)

An Act for the better Regulating The Militia of this Government.

I. Whereas the safety of this as well as all other well-governed Colonys greatly depends upon the well-regulating the Militia thereof; Wherefore Be It Enacted by His Excellency the Pallatine & the Rest of the True & Absolute Lords Props. of Carolina by & with the Advice & Consent of the present Genl. Assembly now met at Little River for the No. East part of the said Province & by the Authority of the same.

II. And It Is Hereby Enacted that from henceforward the Militia of this Governmt. shall consist of all the Freemen within the same between the years of Sixteen years & Sixty & the several Captains now Appointed & Commissionated or hereafter to be appointed & Commissionated shall within Two months after publication of this Act take a List of the names of all such Freemen within their Districts of which their several Companies shall consist & return one copy thereof to the Governor or Commander in Chief & another copy thereof to the Colonel of the Regiment under the Penalty of Five Pounds to be Levied by a Warrt. from the Governor or Commander in Chief to be directed to the Provost Marshall to Execute.

III. And Be It Further Enacted that when such List are taken as afors'd. the said Captain shall once every year from henceforward Viz. in the month of October regulate their said Lists of their several Companys by taking new ones & returning coppies thereof as before directed under the like penalty of Five Pounds to be levied as before directed.

IV. And Be It Further Enacted by the Authority afors'd. that any person after having been so Enlisted as afors'd. who shall at any time hereafter (without sufficient cause to be allowed of by his Commanding Officer) fail or refuse on notice given to appear at such time or places as shall from time to time be appointed by the Governor or Commander in Chief for the time being for that purpose there to be mustered, Trained & Exercised in Arms or that shall not at such times and places be well provided with a good Gun well-fixed Sword & at least Six Charges of Powder & Ball shall forfeit & pay for his non-appearance the sum of Five Shillings & for want of any Due accountments two Shillings & Six pence to be levied by a warrt. from the Capt. of the Company directed to the Serjeant of the Company.

V. Provided allwayes that no Minister of the Church of England, no Practicing Physitian or Chirurghion nor any person bearing the Office of Lords Proprietors, Deputy, Secretary, Attorney, Members of General Assembly, Clerke, Marshall, Constable or Justice of the Peace (except they are Military Officers) or that hath borne the Office of Lords Proprietors, Deputy, Secretary, Attorney General, Provost Marshall, Justice of the Peace or Capt.

of a Company shall be obliged to Enlist themselves or attend at such Musters as afors'd.

VI. And Forasmuch as this Governmt. hath of a long time laboured under a tedious War with the Heathen & which hath in a great measure been lengthened by the remissness of the People & disobedience to their officers commands.

VII. Be It Enacted by the Authority afors'd. that in case of any Invasion or Expedition to be raised & carryed on against the Indian enemy it shall & may be lawful for the Governor or Commander in Chief to Raise all or so many of the Forces of this Governmt. as he shall think necessary for the suppressing the same and any person whatsoever that shall refuse or neglect, on summons, to appeare at such place or places as shall be appointed by his Capt. or other Officer by his command with well-fixt Armes & at least one quarter of a pound of Powder & a pound of Swan or Goose Shott or Bullets & shall refuse to march out against the Enemy where Commanded as afors'd. shall forfeit & pay for such offence the sum of Fifty Shillings to be Levied by a Warrt. from the Capt. as afors'd. And if the Capt. shall neglect or refuse to Issue out his Warrt. & do his duty afors'd he shall forfeit & pay the sum of Tenn Pounds to be Levied by a Warrt. from the Governor or Commander in Chief for the time being as afors'd in this Act is directed.

VIII. And Be It Further Enacted by the Authority afors'd that if any person shall be wounded, hurt or maimed in the Country's service & not of ability to maintain himself or pay for his Cure he or they shall be cured at the Publick Charge & have one good Negro Man-slave allowed & purchased for him for his maintenance & in the same case if any one shall be killed the Publick shall make the same provision for his Wife & family.

IX. And Be It Further Enacted by the Authority afors'd that all such persons who by this Act are exempt from Enlisting themselves or appearing at Muster as afors'd shall be ready at any time of danger to wait & attend the commands of the Governor or Commander in Chief for the time being completely provided with Arms & Ammunition on Penalty of Ten Pounds for such neglect to be levied by Warrant from the Governor or Commander in Chief as before in this Act is appointed for other times.

X. And Be It Further Enacted by the Authority afors'd that if at any time during the time of any Muster any Soldier or other shall resist his lawful Officer or refuse to obey his lawful commands or be any ways refractory or mutinous such Soldier shall be punished at the discretion of the Capt. by Tying Neck & Heels, Running the Gauntlet, Rideing the Wooden Horse or in such like manner; & in case any person, during the time of alarm or Expedition agst. the Enemy Indians shall desert his Collours or be any way mutinous or be disobedient to their Officers commands, It shall & may be lawfull for one Field Officer & Four Captains at least (if so many are in service) or for want of them Lieutenants to erect a Court Martial to be held openly & on tryal to punish offenders according to Martial Law as the nature of the Crime shall require Provided it do not extend to the taking away of life.

XI. And Be It Further Enacted by the Authority as afors'd that all moneys that shall accrue by Virtue of this Act & not herein appropriated shall when levied be accounted for & paid to the Governor or Commander in Chief for the time being to be by him employed in purchaseing such necessary Ornaments as he shall think fitt & proper for the Regiment & the Overplus towards purchasing Arms & ammunition for the Publick Service & an account thereof to be laid before the Company at their next meeting.

XII. And Be It Further Enacted by the Authority afors'd that the Wages

of the Officers & Soldiers hereafter to be Employed in the Service of this Government pursuant to this Act shall be allowed & paid by the Publick Assembly after the Rates following, that is to say:

A Colonel	10 s. pr. diem.
Lieut. Col	9 “ “ “
Major	8 “ “ “
Captain	5 “ “ “
Aid Major	5 “ “ “
Lieutenant	3. 6d.
Ensign	3 “ “ “
Serjeant	2 “ “ “
Private Sent.	1. 6d.

XIII. And Be It Further Enacted by the Authority afors'd that if the Marshall shall not discover any Goods or Estate of the Delinquents whereupon to levy satisfaction for the forfeiture afors'd then the said Marshall or Serjeant shall apprehend the body of such delinquent & him bring before the Governor or Commanding Officer from which such Warrt. shall issue as afors'd who, for non-payment shall bind out such delinquent if of able body to any person that shall pay the Fine to serve so long as shall be thought equivalent to the Fine that is to say after the Rate of Five Shillings per week.

XIV. And Be It Further Enacted by the Authority afors'd that no Commanding officer of a party under Twenty men shall have & receive the pay of more than Ensign nor under the number of Forty men shall have & receive the pay of more than Lieutenant nor under the number of Sixty men more than Capt. nor under the number of more than One Hundred men more than major, nor under the number of two hundred more than Colonell.

EDW'D MOSELEY,
Speaker.

CHAS. EDEN,
N. CHEVIN,
C. GALE,
FRAN. FOSTER,
T. KNIGHT.

CHAPTER XXVI.

(Subject matter since regulated by the King's orders in Council.)

The Form of a Patent.

I. Whereas the True & Absolute Lords Proprietors of Carolina have by their Great Deed of Grant bearing date the First day of May 1668 under their hands & Greate Seale of their Province of Carolina Given & Granted unto the Inhabitants of the County of Albemarle to hold their lands according to the Terms & Tenure upon which the Inhabitants of Virginia hold theirs & have Given & Granted full power & authority to their Lords Prs. Governour for the time being to convey & grant the said lands according to the said Deed as by the same doth & may more fully & at large appear.

II. Be It Therefore Enacted by his Excellency the Pallatine & the Rest of the True & Absolute Lords Props. of Carolina by & with the Advice & Consent of this present Genl. Assembly now met at Little River for the No. East part of the said Province.

III. And It Is Hereby Enacted that in every Book where Patents for Land

LAWS OF NORTH CAROLINA,

1746.

At a General Assembly held at New Bern the Twenty Eighth Day of June, in the Year of our Lord One Thousand Seven Hundred and Forty Six. *Gabriel Johnston, Esq., Governor.*

CHAPTER I.

An Act for the Better regulating the Militia of this Government.

I. Whereas the Safety of this, as well as all other well governed Colonies, greatly depends on the well Regulating the Militia thereof,

II. We pray your Most Sacred Majesty that it may be Enacted, And be it Enacted by his Excellency Gabriel Johnston, Esq., Governor, by and with the Advice and Consent of his Majesty's Council, and the General Assembly of this Province, and by the Authority of the same, That from henceforward, the Militia of this Government shall consist of all the Freemen and Servants within the same, between the Age of Sixteen Years and Sixty; and the several Captains of the Militia in this Province, shall within Four Months next after the Publication of this Act, take the List of the Names of all such Freemen and Servants, within the Districts of which their several Companies shall consist, and return a Copy thereof to the Colonel of the Regiment, under the Penalty of Ten Pounds, Proclamation Money; to be levied by a Warrant from such Colonel, to be applied as hereinafter is directed.

III. And be it further Enacted, by the Authority aforesaid, That when such Lists are taken as aforesaid, the said Captain shall, once every Year from henceforward, viz.: in the Month of October, take new Lists of all the Freemen and Servants in their said several Districts, and return Copies thereof, as before directed, under the like Penalty of Ten Pounds; to be levied and applied as hereafter in this Act is directed.

IV. And be it further Enacted, by the Authority aforesaid, That any Person or Persons, after having been so inlisted, who shall at any Time hereafter (unless rendered incapable by Sickness or Accident), fail or refuse, on Notice given, to appear, at such Times and Places within the County, as shall from Time to Time, be appointed, by the Colonel or Commanding Officer of the Regiment to which he belongs, for that Purpose, there to be mustered, trained, and exercised in Arms, or that shall not at such Times and Places, be well provided with a Gun, fit for service, a Cartouch Box, and a Sword, Cutlass, or Hanger, and at least Twelve Charges of Powder and Ball, or Swan Shot, and Six Spare Flints, shall forfeit and pay, for his Non-Appearance, the Sum of Five Shillings and Four Pence, Proclamation Money; and in Case they do appear, they shall forfeit and pay Two Shillings and Eight Pence, like Money, for Want of any of the Arms, Accoutrements, or Ammunition as aforesaid; to be levied by a Warrant from the Captain of the Company, directed to the Serjeant of the same, who shall make return thereof to the Captain; which Serjeant shall be paid two Shillings, Proclamation Money, by the Offender, for serving the same: And in Case such Serjeant or Serjeants shall refuse or neglect to serve any Warrant or Warrants to him or them so directed, he or they, on Re-

fusal or Neglect thereof, shall be Fined five Pounds, Proclamation Money; to be recovered by a Warrant from the Captain, directed to any other Serjeant, under the same Penalty; to be applied as other Fines in this Act are directed and appointed: Provided that no Person shall incur the Penalty for appearing in the Field without a Cartouch Box, or Cutlass, Sword, or Hanger, Until the Expiration of Six Months, after the Ratification of this Act.

V. Provided always, That no Minister of the Church of England, no Member of His Majesty's Council, no Member of Assembly, Secretary, Attorney General, practising Attorney, no Man who has been a Field Officer, or Captain of the Militia of this Province, or Commissioned Officers which have served in the Army, no Justice of the Peace, no practising Physician, Chirurgeon, no Clerks of the Courts of Justice, no Persons tending Public Mills, or Ferries, shall be obliged to inlist themselves, or attend such Musters as aforesaid.

VI. And be it Enacted, by the Authority aforesaid, That in Case of any Invasion of this Province, or Expedition to be carried on against an Enemy within the Province, it shall and may be Lawful for the Governor or Commander in Chief, to raise all, or so many of the Forces of this Government, as he shall think necessary, for opposing the said Invasion, or supporting the said Expedition: and any Person whatsoever, who shall refuse or neglect, on Notice or Alarm given, to appear at such Times and Places as shall be appointed by his Captain, or other Officer, with Arms, Ammunition and Accoutrements, as aforesaid, or shall refuse to march against the Enemy where Commanded, within this Province, or refuse any other Duty the Defence of the Country may require, shall forfeit and pay for either of the said Offences, Ten Pounds, Proclamation Money, to be levied by a Warrant from the Colonel or Commanding Officer for that Service; And that the respective Officers to whom such Invasion shall be first made known, are hereby authorized to command and order the Men under their Command, to mount Guard, march against the Enemy, and do any other Duty as the Defence of the Country may require, and continue the Alarm until the same is made known to their superior Officers.

VII. And be it further Enacted, by the Authority aforesaid, That in Case of any Invasion of the Province of Virginia, or South Carolina, it shall and may be lawful for the Governor and Commander in Chief for the Time being, to raise so many of the Forces of this Government as shall be thought necessary to give proper relief to such of the Provinces aforesaid as shall be invaded, and to march them to their Assistance, at the Expence of the Province desiring such Assistance; which Number of Forces shall be draughted out of the several Regiments of this Province, and each Regiment to furnish a proportionable Number of Men, so to be draughted and sent to the neighbouring Colony.

VIII. And be it further Enacted, by the Authority aforesaid, That the respective Officers of the Militia, and the private Men, when in actual Service, shall, from the Day they are ordered on Duty be paid according to the Rates following, to-wit:

PROCLAMATION MONEY.		£.	s.	d.
A Colonel, per Day.....		0	12	6
A Lieutenant Colonel.....		0	10	0
A Major		0	10	0
A Captain		0	7	0

	£.	s.	d.
An Adjutant	0	7	0
A Lieutenant, and Chirurgeon, each.....	0	5	0
An Ensign	0	4	6
A Serjeant	0	4	0
A Corporal, and Drummer, each	0	3	6
Every Private Man	0	3	0

IX. And be it further Enacted, by the Authority aforesaid, That if any Person shall be so disabled in the Service of the Country, as not to maintain himself or pay for his Cure, he shall be cured at the Public Charge, and have one good Negro Man purchased for, and given to him, at the charge of the Public, for his Maintenance; and if any one shall be killed, the Public shall make the same Provision for his Wife or Family.

X. And be it further Enacted, by the Authority aforesaid, That such Persons who by this Act are exempt from enlisting themselves or appearing at Musters, shall be ready, at all Time of Danger, (Sickness or Accident always excepted), to attend the Commands of the Governor or Commander in Chief for the Time being, within this Province, compleatly furnished with Arms and Ammunition, as aforesaid, on Penalty of Twenty Pounds, Proclamation Money, to be levied by a Warrant from the Colonel, directed to the Sheriff of the said County, who shall return the same, together with the aforesaid Fine, under the Penalty of Forty Pounds, Proclamation Money, to be recovered by the said Colonel, by Action of Debt, in the General Court of this Province.

XI. And be it further Enacted, by the Authority aforesaid, That if, during the Time of Muster, any Soldier shall resist his lawful Officer, or refuse to obey his lawful Commands, such Soldier shall be punished, at the Discretion of the Captain, with the Lieutenant or Ensign, by being tied Neck and Heels, piquetted, or riding the Wooden Horse: And if any Person, upon Duty, during the Time of any Alarm, Invasion or Expedition, against the Enemy, shall desert his Colours, or be mutinous, it shall and may be lawful for one Field-Officer, or more, Four Captains, Four Lieutenants, and Three Ensigns, or the Majority of them, with one Field-Officer, openly to hold a Court-Martial, first taking the Oath usually taken at Court-Martials, and on Tryal and Conviction, to punish the Offender according to Martial Law, as the Nature of the Crime shall require and for want of a sufficient Number of Officers to compose a Court-Martial, the Offender shall be kept under a Guard until such Time as there be a sufficient Number of Officers to hold a Court Martial as aforesaid.

XII. And be it further Enacted, by the Authority aforesaid, That the Captains shall apply all fines received, and hereafter to be received, by them towards purchasing Drums, Colours, and other Implements of War, or Ammunition, for and to the Use of the Company whereof he is Captain; and shall also account on Oath, once every Year, with the Colonel or Commanding Officer of the County, for all such Fines received, or that he shall or may receive, in Virtue of this Act; and that no Captain shall, hereafter, compound for any Fine hereafter accruing due, under the Penalty of Ten Pounds, Proclamation Money; to be recovered by a Warrant from such Colonel or Commanding Officer, as hereinbefore directed, and such Colonel or Commanding Officer shall make a Report thereof to the Captain General or Commander in Chief for the Time being.

XIII. And be it further Enacted, by the Authority aforesaid, That the Colonels of each and every Regiment of this Province, shall, once every Year cause a General Muster to be made of their respective Regiments, at

such Times and Places within each several County, as they shall think proper to appoint; which, if any of them shall neglect or refuse to do, he or they so offending, shall forfeit and pay the Sum of Twenty Pounds, Proclamation Money; to be recovered by a Warrant from his Excellency the Governor or Commander in Chief for the Time being, and to be applied to the Uses aforementioned in this Act.

XIV. And be it further Enacted, by the Authority aforesaid, That every Captain of a Company shall Four Times every Year, at such Times and Places within their several Districts, as their respective Colonels shall appoint, muster their Companies, and see that every Soldier in their Company be furnished with such Arms, Accoutrements, and Ammunition, as by this Act before is directed, under the Penalty of Five Pounds, Proclamation Money; to be levied by a Warrant from the Colonel or Commanding Officer in the County, and to be applied as hereinbefore is directed.

XV. And be it further Enacted, by the Authority aforesaid, That each and every Company belonging to the several Regiments within this Province shall consist of Fifty private Men, Three Serjeants, Five Corporals, and Two Drummers.

XVI. And be it further Enacted, That the several Colonels of their respective Regiments within this Province, are hereby authorized to apply the Fines and Penalties by them received, in Virtue of this Act, in purchasing Drums, Colours, Ammunition, and Arms, as shall appear to them to be most necessary for the Companies in such Regiments; and that they shall annually render an Account to his Excellency the Governor, sworn before, and certified by any Justice of the Peace in the County, under the Penalty of Fifty Pounds, Proclamation Money, to be recovered by Action of Debt, Bill, Plaint, or Information, in the General Court of this Province (wherein no Essoign, Injunction, or Wager of Law, shall be allowed or admitted of), by any person who will sue for the same, and the one half to him or them who shall sue for the same, the other half to be applied as the other Fines in this Act are directed.

XVII. And be it further Enacted, by the Authority aforesaid, That in Case the Governor or Commander in Chief for the Time being shall, at any Time hereafter, appoint any Troop or Troops of Light Horse, in any County in this Province, that then, and in such Case, the said Troop or Troops that shall be so appointed, are hereby exempt from mustering in any of the Foot Companies within their several Counties, and shall be Accoutred with a good Case of Pistols, a Broad Sword, a Fuzee, with Swivel and Belt, a Cartridge Box, with Twenty Four Cartridges of Powder and Ball, and subject to the muster at the same Times and under the same Penalties as before by this Act is directed for the Foot.

XVIII. And be it further Enacted, by Authority aforesaid, That this Act shall be and continue in Force for and during Three Years, and from thence to the next Session of Assembly.

XIX. And be it Enacted, That each and every Captain of a Company shall procure a Copy of this Act, for which he shall be allowed in his accounting for the Fines and Forfeitures by him received, or to be received, and shall cause the same to be read at the Head of his Company at least once in every Year; under the Penalty of Five Pounds, Proclamation Money.

XX. And be it Enacted, by the Authority aforesaid, That from and after the Ratification of this Act, all and every Act and Acts for regulating the Militia of this Government, and all Matters and Things therein contained, is and are hereby repealed and made void.

LAWS OF NORTH CAROLINA, 1749.

At a General Assembly, held at New Bern, the Sixteenth Day of October, in the Year of Our Lord One Thousand Seven Hundred and Forty Nine. *Gabriel Johnston, Esq., Governor.*

CHAPTER I.

An Act to put in Force in this Province, the several Statutes of the Kingdom of England, or South-Britain, therein particularly mentioned.

I. Whereas many of the Statute Laws of the Kingdom of England, or South-Britain, by Reason of the different Way of Agriculture, and the different Productions of the Earth of this Province, from that of England are altogether Useless, and many others, which otherwise are very apt and good, either by reason of their Limitation to particular Places, or because in themselves they are only Executive by such nominal Officers as are not in, nor suitable for the Constitution of this Government, are thereby become impracticable here.

II. Be it therefore Enacted, by his Excellency Gabriel Johnston, Esq., Governor, by and With the Advice and Consent of his Majesty's Council, and General Assembly of this Province, and it is hereby Enacted, by the Authority of the same, That the several Statutes, and the several Paragraphs or Sections of the several Statutes of the Kingdom of England intituled as followeth, and made and Enacted in such Years of the Reigns of the Kings and Queens of England as before the Titles of the several Statutes, as in this Act set down, are, and are hereby to be in as full Force, Power, and Virtue, as if the same had been specially Enacted and made for this Province, or as if the same had been made and Enacted there in, by any General Assembly thereof: That is to say:

Magna Charta.

- 9 Henry III. Chap. 1. An Act for Confirmation of Liberties.
- 8. How Sureties shall be charged to the King.
 - 14. How men of all sorts shall be amerced, and by whom.
 - 18. The King's Debtor dying, the King shall be first paid.
 - 28. Wager of Law shall not be, without Witness.
 - 29. None shall be condemned without Tryal; Justice shall not be sold or deferred.
 - 34. In what only Case a Woman shall have an Appeal of Death.

Merton.

- 10 Henry III. Chap. 1. A Woman shall recover Damages in a Writ of Dower.
- 2. Widows may bequeath the Cross of their Lands.
 - 9. He is a Bastard that is born before the Marriage of his Parents.

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274. N. C.—*Assembly, New Bern; Recs. Clark, Vol. 23, 1904, Ch. I; Act, Oct. 16, 1749, p. 317.*

- 13. An Act for the further Reformation of Jeofails.
- 15. An Act to enable Judges and Justices of the Peace, to give Restitution of Possession in certain Cases.
- 24. An Act for the Relief of Creditors, against such Persons as die in Execution.
- 27. An act to prevent the destroying and murdering Bastard Children.
- 3 Charles I. The Petition exhibited to his Majesty, by the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, concerning divers Rights and Liberties of Subjects.

Statute the Second.

- 13 Charles II. Chap. 6. An Act declaring the sole Right of the Militia to be in the King, and for the present ordering and disposing of the same.
- 16 ————— Chap. 6. An Act to prevent the delivering up of Merchant Ships.
- 7. An Act against deceitful, disorderly, and excessive Gaming.
- 16 & 17 ————— Chap. 8. An Act to prevent Arrests of Judgments, and superceeding Executions.
- 17 ————— Chap. 7. An Act for a more speedy and Effectual Proceeding upon Distresses and Avowries for Rents.
- 8. An Act for avoiding unnecessary Suits and Delays.
- 22 & 23 Chas. II, Ch. 1. An Act to prevent malicious maiming and wounding: Paragraph the 7th, Malicious maiming made Felony, and Paragraph the 8th, Forfeitures.
- 7. An Act to prevent Malicious burning of Houses, stacks of Corn and Hay, and killing or Maiming of Cattle.
- 10. An Act for the better settling of Intestates Estates.
- 29 ————— Chap. 3. An Act for preventing Frauds and Perjuries.
- 30 ————— Chap. 7. An Act to enable Creditors to recover their Debts of the Executors and Administrators of Executors in their own Wrong.
- 31 ————— Chap. 2. An Act for the better securing the Liberty of the Subject, and for Prevention of Imprisonment beyond the Seas.
- 1 James II., Chap. 17. An Act for reviving and Continuance of several Acts of Parliament therein mentioned; only Paragraph the 5th, 6 and 7, relating to the Act for the better settling Intestates' Estates.
- 1 Wil. & Mary Chap. 8. An Act for the Abrogating the Oaths of Supremacy and Allegiance, and appointing other Oaths.
- 18. An Act for exempting their Majesty's Protestant Subjects, dissenting from the Church of England, from the Penalties of certain Laws.

275. N. C.—*Assembly, New Bern; Recs. Clark, Vol. 23, 1904, Ch. I; Act, Oct. 16, 1749, p. 324.*

CHAPTER III.

An additional Act to an Act to provide indifferent Jurymen in all Causes, both Civil and Criminal, and for an Allowance for their Attendance.

I. Whereas by an Act, intituled, An Act to provide indifferent Jurymen, in all Causes, both Civil and Criminal, and for an Allowance for their Attendance: It is Enacted, That once in Six Months, at each and every County Court within this Province, next after the First Day of January, and the First Day of July, Yearly, in open Court, the Justices of each and every County Court, together with the then Grand Jury, shall elect and chuse a certain Number of the Freeholders of their several Counties, to serve as Jurors at the next General Court, Court of Assize, Court of Oyer and Terminer, and General Gaol Delivery, to which, by the Law now in Force, or any Law hereafter to be made, they ought to attend; which Manner and Time of making such Choice of Jurors as aforesaid, is found inconvenient and impracticable:

II. Be it therefore Enacted, by his Excellency Gabriel Johnston, Esq., Governor, by and with the Advice and Consent of his Majesty's Council, and General Assembly of this Province, and by the Authority of the same, That from and after the passing of this Act, once in Six Months, at each and every County Court within this Province that shall happen next after the First Day of June and the first Day of December, Yearly, the Freeholders required by Law to attend as Jurors, from each County respectively, at the next General Court, Court of Assize, Court of Oyer and Terminer and General Gaol Delivery, shall be elected in open Court, one Half of their Number by the Justices then sitting in Court, and the other Half by the then present Grand Jury, by a Majority of the Votes of the said Justices and Grand Jury respectively, and not otherwise; and the said Justices and Grand Jury shall distinguish the Names of such Persons as shall be so chosen for the Grand Jury, from the Petit Jury, to serve as aforesaid; and such Persons only shall be of either of the said Juries as are by them so nominated and distinguished: Any Law, Custom, or Usage, to the contrary, notwithstanding.

CHAPTER IV.

An Act for altering, explaining, and continuing an Act, intituled, an Act for the better regulating the Militia in this Government.

I. Whereas an Act, intituled, An Act for the better regulating of the Militia of this Government, made the Twenty Eight Day of June, One Thousand Seven Hundred and Forty Six, was to continue for Three Years, and from thence to the End of the next Session of Assembly, which Time is now near expired; which Act, by Experience, is found to be a Good and necessary Law.

II. Be it Enacted, by his Excellency Gabriel Johnston, Esq., Governor, by and with the Advice and Consent of his Majesty's Council, and General Assembly of this Province, and by the Authority of the same, That the said Act, intituled, An Act for the better regulating the Militia of this Government, shall, from and after this present Session of Assembly, (except as herein altered and explained,) be and continue in Force for the Term of Five Years, and from thence to the End of the next Session of the General Assembly and no longer.

III. And whereas by the said Act, it is Enacted, That it shall and may be lawful for one Field Officer, or more, Four Captains, Four Lieutenants, Three

Ensigns, or the Majority of them, with one Field Officer, openly to hold a Court-Martial, and, on Tryal and Conviction, to punish the Offender or Offenders according to Martial Law, as the Nature of the Crime shall require: Be it therefore Enacted, by the Authority aforesaid, that from and after the passing of this Act, the Powers granted to such Court-Martial, shall not be understood or construed, to empower any such Court to inflict the Punishment of Death on any Offender or Offenders whatsoever.

IV. Be it further Enacted, by the Authority aforesaid, That from and after this present Session of Assembly, each and every Captain of a Company, shall and may, at such Times and Places in their respective Districts as they shall judge convenient, Muster their several Companies twice in every Year, and no more: Any Clause in the before recited Act, Usage, or Custom, to the contrary, notwithstanding.

CHAPTER V.

An Act to appoint a Public Treasurer, in Room of Edward Moseley, Esq., deceased.

I. Whereas by an Act, intituled, an Act to appoint Public Treasurers, the Honourable Edward Moseley, Esq., was constituted Public Treasurer for the Counties of Craven, Carteret, Onslow, New Hanover, Bladen, Johnston, Beaufort, and Hyde; and the said Office having become vacant, by the Death of the said Edward Moseley, Esq.;

II. Be it therefore Enacted, by his Excellency Gabriel Johnston, Esq., Governor, by and with the Advice and Consent of his Majesty's Council, and General Assembly of this Province, and by the Authority of the same, That the Honourable Eleazer Allen, Esq., be and is hereby appointed Public Treasurer for the said Counties of Craven, Carteret, Onslow, New Hanover, Bladen, Johnston, Beaufort, and Hyde, in the Room of the said Edward Moseley, Esq., deceased: Which said Treasurer shall, before he enters upon his said Office, give Bond, to our Sovereign Lord the King, his Heirs and Successors, in the Sum of Two Thousand Pounds, Sterling Money, for the faithful Discharge of his said Office: Which Bond shall be lodged in the Secretary's Office.

III. And be it further Enacted, by the Authority aforesaid, That the Sheriffs, and all other Persons concerned, or who have been concerned, in the Collecting or Receiving any Public Money, within the respective Counties of Craven, Carteret, Onslow, New Hanover, Bladen, Johnston, Beaufort and Hyde, who have not already accounted for and paid the same to the aforesaid Edward Moseley, Esq., deceased, shall, upon Oath, account for and pay to the said Eleazer Allen, Esq., all the Money so by them respectively received, or which by Law they ought to have received, and are accountable for; under the Penalty of Twenty Pounds, Proclamation Money.

IV. And be it further Enacted, by the Authority aforesaid, That all and every the Sheriffs, and other Persons, who shall be concerned in the Collecting and Receiving the Public Monies hereafter to be Collected and Received within the several Counties above mentioned, shall, the Week after the next succeeding General Court following the Time appointed by Law for their Collecting or Receiving thereof, upon Oath, account for and pay the same to the Public Treasurer aforesaid, at New Bern, under the Penalty of Twenty Pounds, Proclamation Money.

V. And be it further Enacted, by the Authority aforesaid, That the said

Act made the Thirty-first Day of March, One Thousand Seven Hundred and Fifty-two, was amended and extended, shall be, and is hereby continued, from the Expiration thereof, for, and during the Term of Three Years, and from thence to the End of the next Session of Assembly, and no longer.

V. And be it further Enacted, by the Authority aforesaid, That an Act made the Twenty-eighth Day of June, One Thousand Seven Hundred and Forty-six, intituled, An Act, for the better regulating the Militia in this Government, which was to continue for Three Years, and from thence to the End of the next session of Assembly, which, by an Act made the Sixteenth Day of October, One Thousand Seven Hundred and Forty-nine, was altered, explained, and continued for the Term of Five Years, and from thence to the End of the next Session of Assembly, and no longer; shall be, and is hereby continued from the Expiration thereof, the Term of Three Years, and from thence to the End of the next Session of Assembly, and no longer.

CHAPTER VIII.

An Act, for erecting the upper Part of Bladen County into a County and Parish, by the Name of Cumberland County, and St. David's Parish.

I. Whereas the Inhabitants of that Part of Bladen County, within the Lines herein after mentioned, live at such a Distance from the Court-house, that it is very inconvenient for them to attend the ordinary Business of the County there; and there being a sufficient Number of Freeholders and others, within the said Lines to support the Charges of a County among themselves: Therefore for the Ease of the said Inhabitants,

II. We pray that it may be Enacted, And be it Enacted, by the Honourable Matthew Rowan, Esq; President, and Commander in Chief, by and with the Advice and Consent of his Majesty's Council, and the General Assembly of this Province, and by the Authority of the same, That the upper part of the said County of Bladen, beginning at the Mouth of Cross Creek, running a South-West Line to the Bounds of Bladen County, and North-East to the Line of Duplin County, thence along the dividing Lines of Duplin, Johnston, Orange and Anson Counties; so that all the Inhabitants in Bladen County to the Northward of the Mouth of Cross Creek aforesaid, shall belong to Cumberland County, and the same shall, and is hereby declared and enacted to be a County and Parish, by the Name of Cumberland County and St. David's Parish, with all and every the Rights, Privileges, Benefits, and Advantages whatever; which any other County or Parish in this Province can or may lawfully hold, use, or enjoy.

III. And be it further Enacted, by the Authority aforesaid, That Hector Mac Neil, Esq; be, and is hereby appointed Sheriff of the said County of Cumberland, until the Time prescribed by Law for appointing Sheriffs of this Province; and that Hector Mac Neil; Esq; shall be and is hereby invested with the same Power and Authority as any other Sheriff of any other County in this Province.

IV. And be it further Enacted, by the Authority aforesaid, That John Brooks, William Roberts, Jonathan Evans, Thomas Armstrong, Thomas Jones, Matthew Rayford, William Dawson Thomas Matthews, John Brown, Archibald McNeal, Gilbert Clark, and William Russell, be and are hereby appointed Vestrymen of the said Parish, until the General Election of Vestrymen shall be summoned by the said Sheriff to meet, at such Time and Place as the Majority of the said Vestrymen shall appoint, and qualify themselves as a Vestry, and proceed to Parish Business.

CHAPTER II.

An Act for the better Regulation of the Militia, and for other Purposes.

Whereas, the Militia of this Province requires to be well disciplined in their Duty, for the Defence of the Country against the common Enemy at this critical Juncture;

I. Be it Enacted by the Governor, Council and Assembly, and by the Authority of the same, That all Freemen and Servants within this Province, between the ages of Sixteen and Sixty, shall compose the Militia of this Province; and that the several Captains of the same shall, within three Months next after the Passing of this Act, and so annually, enroll the Names of all such Freemen and Servants, of which their several Companies shall consist, and return a Copy thereof to the Colonel of their respective Regiments, to which they belong, under a Penalty of Ten Pounds, Proclamation Money; to be levied, accounted for, and applied as is herein after directed: Which Copy, so returned, shall, by every Colonel, be returned to the Governor or Commander in Chief for the Time being, under the like Penalty to be recovered. And that all Persons after having been so enrolled, who shall, at any Time hereafter (unless rendered incapable by Sickness or Accident) neglect or refuse, when called upon, to appear at such Times and Places where they are ordered by the Colonel or Commanding Officer, there to be mustered, trained and exercised in Arms, and be provided with a well fixed Gun, and a Cartridge Box, and a Sword, Cutlass or Hanger, and have at least nine Charges of Powder and Ball, or Swan Shot, and three spare Flints, and a Worm and Picker, shall forfeit and pay for his Non-Appearance or Want of being accoutred as aforesaid, the Sum of Ten Shillings, Proclamation Money, to be levied and applied as other Fines in this Act are directed. Provided, That no Member of his Majesty's Council, no Minister of the Church of England, no Justice of the Supreme Courts, no Member of Assembly, Secretary, Attorney-General, practising Attorney or Commissioned Officers which have served in the Army, no Justice of the Peace, no Clerks of the Court of Justice, practicing Physician, Surgeon, Overseer having the care of Taxable Slaves, or Ferryman, except such of the said Persons as bear any Military Commission, shall be obliged to inlist themselves or appear at such Musters as aforesaid.

II. And be it Enacted by the Authority aforesaid, That in Case of any Invasion of this Province, or Expedition to be carried on against an Enemy within the Province, it shall be lawful for the Governor or Commander in Chief for the Time being, or any Field Officer by him directed, to raise all, or so many of the Militia, as shall be thought necessary for opposing such Invasion, or supporting such Expedition and the Militia so raised and assembled, shall perform such Duty and Service as they shall be required to do by their commanding Officers. And it is hereby required and directed, the said Militia shall appear furnished with Arms, Ammunition and Accoutrements, as aforesaid; and every Person on such Duty or Service (except as before excepted) on a Call or an Alarm Given, to appear at such Times and Places as shall be appointed by his Captain or other Officer, who shall refuse to march against the Enemy, when commanded, or refuse or neglect to do his Duty, or perform the Service he is put upon by such Captain or other Officer, shall be punished according to the Nature of their Offence, by the Rules and Orders of the Martial Law: And in Case any Enemy make any March or Encroachment upon this Province, in order to surprise, pillage, or distress the Inhabitants of this Province, it shall and may be lawful for any Field Officer, or Captain of the Militia of this

Province, to call upon the Militia of the County, or Company under his command (except those before excepted) to mount Guard, march against the Enemy, or do any other Duty or Service the Defence of the Country may require, and give and continue the Alarm as occasion may happen; and all Persons liable to obey such Command, on Refusal or Disobedience to their Officer or Officers, shall be tried and punished by a Court Martial, composed of not less than Five Officers.

III. And be it further Enacted by the Authority aforesaid, That the several Officers of the Militia, and the Men, when on Duty, and in the actual Service of their Country, shall, from the Day they are ordered on Duty, be paid according to the Rates following; that is to say

	£.	s.	d.
A Colonel, per Day.....	0	12	6
A Lieutenant Colonel.....	0	10	0
A Major	0	10	0
A Captain	0	7	6
An Adjutant.....	0	7	6
A Lieutenant and Surgeon, each.....	0	5	0
An Ensign.....	0	4	6
A Serjeant.....	0	4	0
A Corporal and Drummer, each.....	0	3	6
A Private Man.....	0	2	8

IV. And be it Enacted by the Authority aforesaid, That if any Person shall be disabled in the Service of his Country, so that he cannot acquire a Livelihood, he shall have a good Negro Man purchased and given him, at the Public Charge, for his Maintenance; and if any Man shall be killed in the said Service, leaving behind him a poor Wife or Family, the same Provision shall be made for her or them.

V. And be it Enacted by the Authority aforesaid, That if any Soldier shall resist his commanding Officer, or refuse his lawful Commands when on Muster, or any other Duty, such Soldier shall be punished at the Discretion of his Officer, by being tied Neck and Heels, not exceeding ten Minutes, picketed, or riding the Wooden Horse; and if any Officer or Soldier shall refuse to carry such Commands into Execution, he or they so offending, shall forfeit and Pay the Sum of Five Pounds, Proclamation Money, to be levied and applied as other Fines mentioned in this Act. And if any Soldier upon Duty or on Service, shall quit his Post, desert his Colours, or mutiny, it shall and may be lawful, for one Field Officer or more, Four Captains, Four Lieutenants, Four Ensigns, or the Majority of them, with One Field-Officer, openly to hold a Court-Martial, first taking the following Oath: You shall well and truly try and determine, according to your Evidence, in the Matter now before you, between our Sovereign Lord the King's Majesty, and the Prisoner to be tried. So help you God. And on Trial and Conviction, to punish the Offender or Offenders according to Martial Law, as the Nature of the Offence may require: And for Want of such Number of Officers to compleat a Court-Martial, the Offender shall be kept under a Guard until such Time as there are a sufficient Number of Officers to hold a Court-Martial as aforesaid.

VI. And be it further Enacted by the Authority aforesaid, That the Colonels of each and every Regiment, shall, once in every Year, cause a general Muster to be made of their respective Regiments, at such Times and Places within the several Counties as they shall think proper to appoint; which if any of them shall neglect to do, and fail personally to appear at

such Musters, Sickness or Accident Excepted, he or they so offending, shall forfeit and pay the Sum of Twenty Pounds, Proclamation Money, to be recovered and applied as other Fines herein mentioned.

VII. And be it Enacted by the Authority aforesaid, That every Captain of a Company, shall, five Times Every Year, at such Times and Places, within their Several Districts, as their respective Colonels shall appoint, muster his Company, and see that every soldier in his Company be furnished with such Arms, Ammunition and Acoutrements, as in and by this Act is directed, under the Penalty of Five Pounds Proclamation Money, for each Muster he shall neglect, to be levied and applied as hereafter is directed; And that each and every Company belonging to the several Regiments of the Militia, shall consist of not less than Fifty Private Men, one Clerk, three Serjeants, three Corporals, and one Drummer.

VIII. And be it further Enacted by the Authority aforesaid, That it shall and may be lawful for the Governor or Commander in Chief for the Time being, to appoint a Troop or Troops of light Horse, in any County of this Province; which Troop or Troops, so appointed, shall be exempt from mustering in any of the Foot Companies within their several Counties, and shall be mounted on Horses not less than fourteen Hands high, and accoutred with a good Case of Pistols, a Carabine, with a Swivel, Belt and Bucket, a broad Sword, and Cartridge Box, with twelve Charges of Powder and Ball, all of his own Property, and subject to muster as many Times, as well with Regard to private Musters, as to the General Muster of the County, and under the same Penalties, as in and by this Act is before directed for the Foot to muster.

IX. And be it further Enacted by the Authority aforesaid, That it shall and may be lawful for the Field Officers and Captains of every County, or the major Part of them, whereof, the Colonel, Lieutenant-Colonel, or Major shall be one: and they are hereby required to meet at the Court-house or Place of general Muster of their Counties, respectively, on the Days next following the respective general Musters, which shall be in their Counties, then and there to hold a Court-Martial; which said Court shall have full Power to adjourn, from Day to Day, not exceeding three Days, and enquire into the Age and Abilities of all Persons inlisted, and to exempt such as they judge incapable of Service; and of all Neglects and Omissions, as well by any Officer as Delinquent, returned by the Captains and other Officers for Absence from Musters, or appearing without Arms and Accoutrements as by this Act required; and to order the Fines inflicted by this Act to be levied upon such Officers and Delinquents, as shall not then and there make out some just and reasonable Cause for not complying with their Duty; and to order and dispose of all such Fines, in the first place for buying Drums, Trumpets, Colours, and other Necessaries for the Use of the Company from whence the same shall arise, and afterwards for supplying the Militia with Arms: And the said Court is hereby directed and required to keep a Register of all their Proceedings, and for that Purpose to appoint a Clerk, and to allow him a reasonable salary out of the said Fines; and after the holding of every such Court, the Clerk shall make out Copies of their Orders, and deliver the same, within one Month next following such Court, to the Sheriff of the County, who is hereby impowered and directed to demand and receive the Sums therein charged, of the Persons made chargeable therewith; and in Case of Non-Payment on or before the First Day of May then next following, to levy the same by Distress and Sale of the Goods of the Party refusing, according to the Laws now in Force for enabling the sale of Goods distrained for Public and County Taxes; which

said Fines the Sheriff shall account to the said Court for, at the next Court after the first Day of May, yearly, after deducting Five per Centum for collecting the same, under the like Pains and Penalties, Rules and Restrictions, as for not accounting for public Taxes.

X. And be it further Enacted by the Authority aforesaid, That every Colonel (if a Resident of the County) failing to appear at any General Muster, or such Court as aforesaid, shall, for every such Offence, forfeit and pay the Sum of Five Pounds; and every Captain failing to appear at the said Court, shall forfeit and pay for every failure, Three Pounds, except rendered incapable by Sickness or other Accident: And every Captain, or in his Absence, the next commanding Officer, shall return to the said Court, on Oath, a List of the Persons who shall not appear at the respective Musters to which they shall be called, or shall appear thereat without their Arms or Accoutrements as aforesaid, under the Penalty of Ten Pounds; which said Fines, respectively, shall be assessed and collected as other Fines in this Act, and applied in supplying the Poor of the County with Arms: And every Clerk of such Court failing to deliver Copies of the Orders of the said Court to the Sheriff of the County, within the Time herein before limited, shall forfeit and pay Fifty Pounds; one Half to him or them, who shall sue for the same, and the other Half to the Use of the Poor of the County, to be applied in purchasing Arms as aforesaid, to be recovered in the Supreme Court of the District wherein such Failure or Neglect shall happen, by Action of Debt, with Costs.

XI. And be it Enacted by the Authority aforesaid, That each and every Captain of a Company shall procure a Copy of this Act, and be allowed for the same out of the Fines aforesaid; and shall cause the said Act to be read at the Head of his Company, at least twice a Year, under the Penalty of Five Pounds, Proclamation Money, to be recovered, levied, and applied as aforesaid.

XII. And be it further Enacted by the Authority aforesaid, That this Act shall be and continue in Force, for and during three Years, and from thence to the End of the next Session of Assembly.

XIII. And be it further Enacted by the Authority aforesaid, That from and after the Passing of this Act, all and every other Act and Acts for the Regulation of the Militia of this Province, and all Matters and Things therein contained, are hereby repealed and made null and void.

CHAPTER III.

An Act to amend an Act, for establishing the Supreme Courts of Justice, Oyer and Terminer, and General Gaol Delivery of North Carolina.

I. Whereas, the Inhabitants of one and the same District, suing and impleading each other in any other Supreme Court than that of the District wherein they both live, is become a Grievance; for Remedy whereof,

II. Be it Enacted by the Governor, Council, and Assembly, and by the Authority of the same, That when any Suit or Suits shall hereafter be commenced in any of the Supreme Courts of Justice in this Province, and the Plaintiff and Defendant shall both be Residents of the same District, such Suit or Suits shall be brought to the Court of the District wherein they dwell; and if any Plaintiff or Plaintiffs shall bring any such Suit to any other Court, or Purpose to evade this Act, such Suit may be abated by the

LAWS OF NORTH CAROLINA--1759.

At a General Assembly, begun and held at New Bern, on the Twelfth Day of December, in the Year of Our Lord One Thousand Seven Hundred and Fifty-four, and from thence continued, by several Prorogations, to the Eighth Day of May, in the Year of our Lord One Thousand Seven Hundred and Fifty-nine, to be then held at New Bern: Being the Ninth Session of this Assembly. *Arthur Dobbs, Esq.*, Governor.

CHAPTER I.

An Act to Amend and Continue an Act, Intituled, an Act for the better Regulation of the Militia, and for other Purposes.

I. Whereas, an Act Intituled an Act for the better Regulation of the Militia, and other Purposes, is near expiring and the Power by the said Act for raising the Militia and Marching them against the Enemy, is limited to the Opposing Invasions and Supporting Expeditions within this Province only,

II. And Whereas, it is absolutely necessary on this present Immergency that part of the Militia should march to joyn the Troops of South Carolina, now near our Frontier, and upon an Expedition to Obtain Satisfaction of the Cherokee Indians, for divers Murders and Depredations committed by them on our back Settlements, for remedy whereof,

III. Be it Enacted by the Governor, Council and Assembly, and by the Authority of the same, That the Governor or Commander in Chief for the time being, by, and with the Advice and Consent of His Majesty's Council, may during the Continuance of this Act, Order to be raised and Marched out of this Province so many of the Militia as shall be judged expedient to joyn the Forces of our Neighboring Provinces of South Carolina and Virginia in Opposing any Invasions or Supporting any Expedition against the Common Enemy, And the Several Officers and Soldiers so raised shall be under the same rules and regulations and lyable to the same pains and Punishments as are Provided in the before recited Act in case of Invasions within this Province.

IV. And be it further Enacted by the Authority aforesaid, That the several Officers of the Militia while in Actual Service shall be allowed the same pay as the Officers of the two Company's now in the pay of this Province and that each Serjeant shall be allowed Two Shillings and Eight Pence, a Corporal Two Shillings, A Drummer two Shillings and each private Man One Shilling and four pence Per Day and their Provisions and Ammunition found them. Provided, nevertheless, That no Commissioned Officer shall receive pay for more than one Commission.

V. And be it further Enacted by the Authority aforesaid, That the before recited Act and every Clause and Part thereof except such part as is hereby amended shall be and Continue in force for and during the space of Six Months and from thence to the end of the next Session of Assembly and no longer.

the respective Treasurers on or before the tenth Day of June in each year, any Law, Usage or Custom to the Contrary notwithstanding.

CHAPTER X.

An Act to facilitate the raising Recruits to serve his Majesty in the intended Expedition against the French on the Ohio, and guarding the Frontiers of this Province.

Whereas, many of the Youth of this Province, and others, who have no visible Estates, or Employments, stroll from one County to another, neglecting to labour, and by their idle and disorderly Manner of living are burthensome to the honest and industrious Planters, may be useful, if inlisted in his Majesty's Service;

I. Be it therefore Enacted by the Governor, Council and Assembly, and it is hereby Enacted by the Authority of the same, That all able-bodied Persons of the Age of Twenty-one Years, and not exceeding Fifty Years old, not having wherewithal to maintain themselves, who shall be found loitering and neglecting to labour for Wages; all persons who run from their Habitations and leave Wives or Children without suitable Subsistence, and other idle dissolute Persons wandering abroad, without betaking themselves to some lawful Employment or honest labour; shall be deemed and are hereby declared to be Vagrants.

II. And be it further Enacted, by the Authority aforesaid, That any Two Justices of the Peace, upon Complaint to them made, by any Officer appointed by the Governor or Commander-in-Chief for the Time being, to raise and inlist Recruits to serve his Majesty in the intended Expedition against the French on Ohio, or in guarding the Frontiers of this Province, that any such Vagrant is wandering or loitering in any County or Parish within this Province, shall, and they are hereby required, by Warrant, directed to any Sheriff or Constable of their County, to cause such Vagrant to come before them, and to examine and inform them, by the Oath and Examination of the Person apprehended, as well as of any other Person or Persons (which Oath or Oaths, such Justices are hereby impowered to administer,) and by any other Ways or Means they shall think proper, of the Condition and Circumstances of the Person apprehended; and if it shall appear that he is under the description of Vagrants within this Act, the said Justices shall, by Warrant, order and direct him to be conveyed by the Sheriff, or from Constable to Constable, under a proper Guard if necessary, until he be delivered to such Officer; and such vagrant, from the Time of being so delivered, shall be held and deemed to be inlisted in his Majesty's Service, and shall be intitled to the same pay, and be subject to the same Discipline, Pains and Penalties, and be clothed and provided for in the same Manner as those who shall inlist voluntary in the same Service.

III. And be it further Enacted, by the Authority aforesaid, That every Person inlisted to serve his Majesty in the intended Expedition aforesaid, or to guard the Frontier of this Province, who shall be wounded in the said Service, shall be cured, and if rendered unable to gain a Livelihood by Labour, shall have suitable Provision made for him by the Public.

IV. And be it further Enacted, by the Authority aforesaid, That this Act shall continue and be in Force until the Tenth Day of November, which shall be in the Year of our Lord One Thousand Seven Hundred and Fifty-Six, and no longer.

269. N. C.—*Assembly, New Bern; Recs. Clark, Vol. 25, 1906 (re 13 Ch. II, Ch. 6—Militia); Act, Dec. 12, 1754, p. 310, Ch. X.*

CHAPTER VII.

An Act to amend and continue an Act intituled An Act for appointing a Militia.

I. Whereas an Act for appointing a Militia, passed at the last General Assembly held at Wilmington in June last, was to continue and be in Force for and during Six Months and no longer, and is now near expiring; and it being found necessary that the said Act should be amended and continued;

II. Be it therefore Enacted, by the Governor, Council, and Assembly and by the Authority of the same, That from and after the passing of this Act, there shall be yearly One General Muster, and Three private Musters, of every Company in each Regiment, and no more; any Thing in the before recited Act to the contrary notwithstanding.

III. And be it further Enacted, That the Major of each Regiment shall be subject and liable to the same Fines for every Default of Duty that the Colonel is by Law subject to.

IV. And be it further Enacted, by the Authority aforesaid, That this Act, and the Act before recited, as by this Act amended, shall be and continue in Force for and during the Space of Two Years, and no longer.

CHAPTER VIII.

An Act for raising Money by a Lottery, towards finishing the Churches at Wilmington and Brunswick; and for applying the Produce of the Slaves, and other Effects taken from the Spaniards at Cape Fear, in the Year of our Lord One Thousand Seven Hundred and Forty Eight, to the same Purposes.

I. Whereas by an Act intituled, an Act for raising Money for finishing the Churches in the Parishes of St. James's and St. Philip's, in New Hanover County, by a Lottery, several Persons were appointed Managers for undertaking, carrying on, and drawing a Lottery as therein mentioned; but the greatest part of the Tickets therein remaining unsold, and the Time for Drawing the same being now expired, the Method for raising Money for the Purposes aforesaid is now become ineffectual: And whereas it is imagined, that the Scarcity of Proclamation Money in this part of the Province, had prevented many Persons from purchasing Tickets, who might have inclined to have become Adventurers therein, if the Money had not been immediately payable on the Purchase of the Tickets; and the Method of selling them as hereafter mentioned, being rendered more easy to the Purchasers a Sufficient Number might be sold to enable the Managers to have the same drawn in a short Time.

II. Be it therefore Enacted, by the Governor, Council, and Assembly, and by the Authority of the same, That Cornelius Harnett, Alexander Duncan, Thomas Davis, and John Payne, Esqrs., shall be, and are hereby appointed Managers, for undertaking, carrying on, and drawing a Lottery in Wilmington, for the Purposes aforesaid, with Power to Issue One Thousand Tickets, to be signed by themselves, at the Price of Three Pounds, Proclamation Money, in the following Form:

No.

Cape Fear Church Lottery.

This Ticket entitles the Bearer to whatever Prize may be drawn against this Number, deducting Fifteen per Cent. as by Act of Assembly passed in December, 1760.

aforesaid Indians, shall be intitled to receive the same; but if a less Sum shall be found sufficient for the said Purpose, the Surplus shall be applied towards paying the several Creditors of the Public such Claims as already have been, or shall be allowed by the General Assembly, and to any other Purpose: And the Residue of the said Twelve Thousand Pounds is hereby appropriation to and for the Payment of the Debts of the Public, chargeable on the Contingent Fund, and shall not be otherwise applied.

XVI. And be it further Enacted, by the Authority aforesaid, That if any Person shall forge or counterfeit any of the said Bills of Credit, or shall pass or utter the same in Payment or Exchange, knowing the same to be forged or counterfeited, the Offender therein, being Lawfully convicted, shall be adjudged a Felon, and suffer as in Cases of Felony, without the Benefit of Clergy.

XVII. And for redeeming the said Public Bills of Credit, Be it Enacted by the Authority aforesaid, That a Poll-Tax of One Shilling be laid on every Taxable Person within this Province, to commence on the First Day of January, One Thousand Seven Hundred and Sixty Three, and to continue until the whole Sum to be emitted by this Act shall be paid in and burnt; which said Tax shall be collected by the Sheriffs of the several Counties, and accounted for and paid to the Treasurers of the several Districts, in the same Manner and under the like Penalties, as are by Law Directed for the collecting, accounting for, and paying other Public Taxes.

CHAPTER II.

An Act for Appointing a Militia.

I. Whereas it requires a Militia to be appointed, for the Defense of the Country, at this critical Juncture;

II. Be it Enacted, by the Governor, Council, and Assembly, and by the Authority of the same, That all Freemen and Servants withiu this Province, between the Age of Sixteen and Sixty, shall compose the Militia thereof; and that the several Captains of the same, shall enroll the Names of all such Freemen and Servants of which their several Companies consist; and shall, at their respective General Musters, return a Copy thereof to the Colonel of their respective Regiments, under the Penalty of Five Pounds Proclamation Mony; to be levied by a Warrant from the Colonel of the Regiment, directed to the Sheriff of the County to which the said Regiment shall belong: which Sheriff shall be paid, out of the said Penalty, the Sum of Twenty Shillings; And in Case any Sheriff shall neglect or refuse to serve such Warrant, he shall forfeit and pay the Sum of Five Pounds; to be recovered by Action of Debt, in any Court of Record, and to be applied as hereinafter directed; which copy so returned, shall by every Colonel, be returned to the Governor or Commander in Chief for the Time being, under the like Penalty; And that all Persons after being so Enrolled, who shall at any Time (unless rendered incapable by sickness or other Accident) neglect or refuse, when called upon, to appear at such Times and Places where ordered by the Colonel or Commanding Officer, there to be mustered, trained, and exercised in Arms, and be provided with a well-fixed Gun, shall forfeit and Pay, if at a private Muster, Six Shillings, if at a general Muster Ten Shillings; and shall also be provided with a Cartouch-Box, a Sword, Cutlass or Hanger, and have at least Nine Charges of Powder (made into Cartridges) and sizable Bullets or Swan Shot, and Three spare-flints, a Worm, and Picker, under the Penalty, if at a private Muster, the Sum of Three Shillings, if at a General Muster Five Shillings; to be levied by a Warrant from the Captain of the

Company, directed to the Sergeant of the same who shall make a Return thereof to the Captain; which Sergeant shall deduct Two shillings for every Fine so levied; And in Case such Sergeant or Sergeants shall neglect or refuse to serve any Warrant or Warrants to him or them so directed, he or they, for such neglect or refusal, shall be fined Forty Shillings; to be recovered by a Warrant from the Captain, directed to any other Sergeant, under the same Penalty; to be accounted for and applied as other Fines in this Act directed.

III. Provided always, That every Absentee shall be allowed till the next succeeding Muster to make his Excuse, before the Captain shall issue his Warrant unless against such Defaulters, as he may suspect are about removing themselves out of the County; in which Case, it shall and may be lawful for the Captain to issue a Summons, to cause such suspected Person to appear before him to make his Excuse for such Absence; and upon hearing the same, or upon the Person's refusing to obey such Summons, the Captain shall then proceed as to him shall seem just; And every Person that shall be Fined by Virtue of this Act, and shall think himself injured by his Officers may appeal to the next Court Martial, first giving Security to appear and abide by the Judgment of the said Court; and if Judgment shall be against him, that he will then and there pay the Fine, with Two Shillings Costs.

IV. Provided also, That no Member of his Majesty's Council, no Member of the Assembly, no Minister of the Church of England, no Presbyterian Minister regularly called to any Congregation in this Province, no Justice of the Superior Courts, Secretary, Practising Attorney, no Man who has bore a military Commission as high as that of a Captain, or Commissioned Officer who has served in the Army, no Justice of the Peace, no Clerks of the Court of Justice, practising Physician, Surgeon, Ferryman, Overseer, having the Care of Six Slaves, Inspectors or Public Millers, shall be obliged to inlist themselves, or appear at such Musters.

V. And be it further Enacted, by the Authority aforesaid, That if the Captain, Lieutenant, or Ensign, or any Two of them shall adjudge any Person or Persons enrolled as aforesaid, to be incapable of providing and furnishing him or themselves with the Arms, Ammunition, and Accoutrements, required by this Act, every such Person shall be exempt from the Fines and Forfeitures imposed by Virtue of this Act until such Arms, Ammunition, and Accoutrements, shall be provided for and delivered him by the Court Martial; to be paid for out of the Fines already collected, and that may hereafter be collected.

VI. And be it further Enacted by the Authority aforesaid, That the Captain of every Company within this Province, shall and they are hereby required, to choose a Clerk, Three Sergeants, Three Corporals, and a Drummer, for the said Company; Which said Clerk shall give his Attendance, with his Sword by his side, on every Muster Day, and call over the Roll of the Company, and take Notice of the Persons who are absent on each of the said Muster Days and return upon Oath, a true List of the Absentees to his Captain; and shall also before the Company, proceed to their Exercise, read distinctly, and with an Audible Voice, at the Head of his Company, this Act; and if the Clerk, Sergeants or Corporals, or any of them so chosen, shall refuse to act in the Office he is appointed to, he shall forfeit and pay the Sum of Forty Shillings.

VII. And be it further Enacted, by the Authority aforesaid, That in Case of any Insurrection within this Province, or Invasion, it shall and may be lawful for the Governor or Commander in Chief for the Time being, or any Field Officer by him directed, to raise all or so many of the Militia as shall

be thought necessary for opposing such Insurrection or Invasion; and the Militia so raised, shall perform such Duty or Service as they shall be required to do by their Commanding Officer; and it is hereby required and directed, that the said Militia shall appear furnished with Arms, Ammunition, and Accoutrements as aforesaid.

VIII. And be it further Enacted by the Authority aforesaid, That every Person who shall neglect or refuse, on Call or Alarm given, to appear at such Times and Places as shall be appointed by his Captain or other officer, shall forfeit and pay Ten Pounds, Proclamation Money; to be levied by a Warrant from the Colonel or Commanding Officer for that Service, directed to the Sheriff of the County where the Offender resides; And such Sheriff, who is hereby required and directed to execute the same, shall for every Neglect or Refusal, forfeit and pay the Sum of Ten Pounds, Proclamation Money, to be recovered by Action of Debt, in any Court of Record in this Province. And any Person who shall refuse to march against the Enemy, when commanded, or refuse or neglect to do his Duty, or perform the Service he is put upon by such Captain or other Officer, or shall quit his Post, desert his Colors, or Mutiny; it shall and may be lawful for One Field Officer, or more, Four Captains, Four Lieutenants, and Four Ensigns, or the Majority of them openly to hold a Court Martial; first taking the following Oath:

You shall swear, well and truly to try and determine, according to your Evidence in the Matter now before you, between our Sovereign Lord the King and the Prisoner to be tried. So help you God.

And on Trial and Conviction, to punish the Offender according to Law, as the Nature of the Offense may require; (Death excepted) and for want of such number of Officers to compleat a Court Martial, the offender shall be kept under a Guard until such Time as there are a sufficient Number to hold a Court Martial as aforesaid.

IX. And be it further Enacted, by the Authority aforesaid, That the Private Men, when on Duty, and in the Actual Service of their Country, more than Six Days, shall be allowed One Shilling per Day, each.

X. And be it further Enacted by the Authority aforesaid, That every Captain of a Company shall, twice within Six Months, at such Times and Places within their several Districts as their respective Colonels shall appoint, muster his Company, and see that every Soldier in his said Company be furnished with such Arms, Ammunition and Accoutrements, as in and by this Act is directed; under the Penalty of Five Pounds for each Muster he shall neglect; to be levied by Warrant from the Colonel or Commanding Officer of the County; and to be applied as by this Act is directed; and that each and every Company shall consist of not less than Fifty Men exclusive of Officers.

XI. And be it further Enacted, by the Authority aforesaid, That all Officers of the Militia shall be resident in the County for which they are appointed Officers.

XII. And be it further Enacted, by the Authority aforesaid, That if any Soldier shall, during the Time of Muster, resist his Commanding Officer, or refuse his lawful Commands; such Soldier shall be punished at the Discretion of his Officer, by being tied Neck and Heels, not exceeding Fifteen Minutes, picqueted, or ride the Wooden Horse; and if any Officer or Soldier shall refuse to carry such Commands into Execution, he or they so offending, shall forfeit and pay the Sum of Five Pounds; to be levied by a Warrant from any Field Officer in the Regiment, and applied as other Fines mentioned in this Act.

XIII. And be it further Enacted, by the Authority aforesaid, That if any Number of Men, not less than Thirty, nor exceeding Sixty, including Officers

belonging to any of the Regiments within this Province, shall desire to form themselves into a Troop of Horse; it shall and may be lawful for such Persons, by and with the assent of the Colonel of the Regiment, to form themselves into a Troop, and give a List of their Names to the Colonel, who shall forthwith return the same, under his Hand and Seal, to the Governor or Commander in Chief of this Province for the time being and it shall and may be lawful for the said Governor or Commander in Chief to appoint and Commissionate a Captain, Lieutenant and Cornet, to the said Troop; and when the Commanding Officers of the said Troop are ready, and shall exercise the said Troop, and not before the persons so enrolled in the said Troop shall be, and are exempt from their Service in the Foot Companies; and the Officers and private Men of the said Troop, shall afterwards be subject to muster as many Times, as well with Regard to private Musters as to the General Muster of the County and under the same Penalties as in and by this Act before directed for the Foot to muster.

XIV. And be it further Enacted, by the Authority aforesaid, That every Trooper shall be provided with a good, serviceable Horse, not less than Fourteen Hands high, with a good Bridle, Saddle, Holsters, Housing, Breast-Plate and Crupper, a Case of good Pistols, a good Broad Sword, Twelve Charges of Powder, Twelve sizeable Bullets, a Pair of Shoe-Boots, with suitable Spurs, and a Carbine well fixed, with a good Belt, Swivel and Bucket.

XV. And be it further Enacted, by the Authority aforesaid, That the Colonels of each and every Regiment shall, once within Five Months, cause a general Muster to be made of their respective Regiments, at such Times and Places within the several Counties as they shall think proper to appoint; which if any of them shall fail or neglect to do, and fail to appear at such Musters, (sickness or accident excepted) he or they so offending, shall forfeit and pay the Sum of Twenty Pounds; to be recovered by Action of Debt, Bill, Complaint, or Information, in any Court of Record within this Province; one-half thereof to such Person who shall sue for the same, and the other Half to be applied as other Fines in this Act directed.

XVI. And be it further Enacted, by the Authority aforesaid, That it shall and may be lawful for the Field Officers and Captains of every County, or the Major Part of them, whereof the Colonel, Lieutenant-Colonel, or Major, shall be One; and they are hereby required to meet at the Court House or Place of general Muster of their Counties respectively, on the Day next following the respective General Muster which shall be in their Counties, then and there to hold a Court Martial; Which said Court shall have full power to enquire into the Age and abilities of all Persons inlisted, and to exempt such as they shall judge incapable of Service, and of all Neglects and Omissions, as well by any Officer as Delinquent; and to hear and determine all appeals which shall be made to the Court from any Officer or Soldier who may think himself unjustly Fined by his Captain; and to order and to dispose of all Fines; In the First Place, for buying Drums, Colours, and other necessaries, for the use of the Company from whence the same shall arise, and afterwards for supplying the Militia with Arms; and the said Court is hereby directed and required, to keep a Register of all their Proceedings: and for that purpose to appoint a Clerk, and to allow him a reasonable Salary out of the Fines.

XVII. And be it further Enacted, by the Authority aforesaid, That the Court Martial of every County shall have full Power, from Time to Time, to call the Sheriff, or any other Person or Persons whatsoever to Account on Oath, who shall pay to them the Monies in the Hands of him or them belonging to their respective Regiments, that have accrued and become due

by Virtue of a late Act of Assembly, intituled, An Act for the better Regulation of the Militia, and other purposes, passed in the Thirtieth Year of his Majesty's Reign; or shall or may become due by Virtue of this Act. And if any Sheriff or other Person shall refuse or neglect to appear, account and pay as aforesaid, he shall forfeit and pay the Sum of Five Hundred Pounds; to be recovered with Costs, by the Colonel of the Regiment to which such Money is or may become due, by Action of Debt or Information, in any Superior Court; and to be applied to the Use of the Regiment. And when any Suit shall be brought by the Colonel, and he shall happen to die, or be superseded before such suit shall be determined, the same shall and may be carried on by the succeeding Colonel, in the Name of his Predecessor, who brought such suit; And the Death of the Colonel, or his being displaced, shall not be pleaded in abatement of such suit, nor deemed Matter of Error; any Law or Usage to the contrary notwithstanding.

XVIII. And be it further Enacted, by the Authority aforesaid, That every Colonel failing to appear at such Court, and every Lieutenant-Colonel failing to appear at the General Muster, or such Court as aforesaid, for every such Offense, shall Forfeit and pay the Sum of Five Pounds Proclamation Money, and every Captain failing as aforesaid, shall Forfeit and pay three Pounds; and every Lieutenant or Ensign failing to appear at the general Muster, Forty Shillings, unless they shall make such Excuse for their absence to the next succeeding Court, as the said Court shall judge sufficient; And every Captain, or in his Absence, the Clerk of the said Company, shall return, on Oath, an exact List of the Persons who have been Fined, and whether for Absence or want of Accoutrements; and every Captain shall then and there pay, into the Court, all such Fines as he shall have received, under the Penalty of Fifty Pounds; to be levied by a Warrant from the Colonel; which said Fine shall be applied as other Fines by this Act are directed.

XIX. And be it further Enacted by the Authority aforesaid, That each and every Captain shall procure a Copy of this Act, and lodge the same with the Clerk of his Company; and be allowed for the same out of the Fines.

XX. And be it further Enacted, by the Authority aforesaid, That no Officer or Soldier, ordered and directed by this Act to appear at Muster as aforesaid, shall be liable to be taken or arrested by any Officer in any Civil Action or Process whatsoever, on the Day such Person is directed to appear, in any reasonable Time, either in going to, continuing at, or returning Home, from the Place appointed to Muster; but every such Arrest is hereby declared to be *Ipso Facto* void; and all Officers are hereby required to take Notice thereof; any Law, Usage, or Custom, to the contrary notwithstanding.

XXI. And be it further Enacted, by the Authority aforesaid, That every Person liable to appear or Muster, going to, or returning from any Muster, shall be suffered to pass over any Bridge, and shall be put over any Ferry without Delay, free from any Charge whatsoever; and if any Ferryman shall demand, delay, or refuse to put such Person or Persons over, he shall forfeit and pay for every such Offense, the Sum of Twenty Shillings; to be recovered by a Warrant from a Justice of the Peace; one Half to the Informer, the other Half for the Use of the Parish wherein the Offense was committed.

XXII. And be it further Enacted, by the Authority aforesaid, That this Act shall be and continue in Force for and during Six Months, and no longer.

Signed by

ARTHUR DOBBS, ESQ., Governor.

James Hasell, President.

SAMUEL SWANN, Speaker.

ploy some neighboring Minister or proper Reader to officiate, until an Incumbent may be had, That Divine Service may not be neglected.

IX. Provided always, That no Vestry shall present as a Minister to their Parish, any Person who shall not first have a Certificate from the Bishop of London, that such Minister hath been duly ordained conformable to the Doctrine and Discipline of the Church of England, and is of a good Life and Conversation.

X. And be it further Enacted, by the Authority aforesaid, That if any Clergyman presented to any parochial Living within this Province, shall be guilty of any gross Crime or notorious Immorality, it shall be lawful for the Governor or Commander in Chief for the Time being, by and with the Advice of his Majesty's Council to remove and discharge the said Clergyman from serving the Cure of such Parish whereof he was incumbent; and such Removal and Discharge shall be deemed, held and taken to be of the same Force and Effect, as any Sentence of Deprivation in any Ecclesiastical or other Court whatsoever; any Law, Usage, or Custom to the contrary notwithstanding.

XI. And be it further Enacted by the Authority aforesaid, That all and every other Act or Acts, and every Clause and Article thereof, for so much as relates to any Matter or Thing within the Purview of this Act (except One Act of Assembly, intituled, An Act to confirm an Agreement made by the present Church Wardens and Vestry of Christ Church Parish, in Craven County, with the Reverend James Reed; and also one Act intituled, An Act to confirm an Agreement made with the Church Wardens and Vestry of Edgecomb Parish, in Halifax County, with the Reverend Thomas Burgess) from henceforth, shall be repealed and made void.

CHAPTER VII.

An Act for the further continueing and amending an Act for appointing a Militia; and also to continue one other Act intituled, An Act to amend and continue an Act intituled, An Act for appointing a Militia.

I. Whereas an Act for appointing a Militia passed at Wilmington the Fourteenth Day of July, in the Year of our Lord One Thousand Seven Hundred and Sixty; and one other Act to amend and continue an Act For appointing a Militia, passed the Third Day of December, One Thousand Seven Hundred and Sixty, are near expiring; and it being necessary the said Acts should be amended and continued;

II. Be it Enacted by the Governor, Council, and Assembly and by the Authority of the same, That for the Future all Coroners and Constables in this Province, so long as they continue in Office, shall be exempt from inlisting themselves, and appearing at any Private or general Musters; any Thing in the before recited Acts to the contrary notwithstanding.

III. And be it further Enacted by the Authority aforesaid, That the above recited Acts, intituled, An Act for appointing a Militia, passed at Wilmington the Fourteenth Day of July, in the Year of our Lord One Thousand Seven Hundred and Sixty. And an Act intituled, An Act to amend and continue an Act for appointing a Militia, passed the Third Day of December, One Thousand Seven Hundred and Sixty; and each and every Clause and Article in them, respectively, shall be and continue in Force for and during the Space of One Year from and after the passing hereof, and from thence to the end of the next Session of Assembly, and no longer.

279. N. C.—*Assembly, New Bern; Recs. Clark, Vol. 23, 1904, Ch. VII; Act, Nov. 3, 1762, p. 585.*

LAWS OF NORTH CAROLINA, 1764.

At an Assembly, begun and held at Wilmington, the Thirtieth Day of January, in the Fifth Year of the Reign of our Sovereign Lord George the Third, by the Grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, &c., and in the Year of our Lord One Thousand Seven Hundred and Sixty Four; Being the First Session of this present Assembly. *Arthur Dobbs, Esq.*, Governor.

CHAPTER I.

An Act for appointing a Militia.

I. Whereas a Militia may be necessary, for the Defence of this Province;

II. Be it Enacted, by the Governor, Council, and Assembly, and by the Authority of the same, That all Freemen and Servants within this Province, between the Age of Sixteen and Sixty, shall compose the Militia thereof; and that the several Captains of the same, shall enroll the Names of all such Freemen and Servants of which their several Companies consist; and shall at their respective General Musters, return a Copy thereof to the Colonel of their respective Regiments, under the Penalty of Five Pounds, Proclamation Money; to be levied by a Warrant of Distress from the Colonel of the Regiment, directed to the Sheriff of the County to which the said Regiment shall belong; which Sheriff shall be paid, out of the said Penalty, the Sum of Ten Shillings; And in Case any Sheriff shall neglect or refuse to serve such Warrant, he shall forfeit and pay the Sum of Five Pounds to be recovered by Action of Debt, in any Court of Record, and be applied as herein after directed; which Copy so returned, shall, by every Colonel, be returned to the Governor or Commander in Chief for the Time being, under the like Penalty: And that all Persons after being so enrolled, who shall at any Time (unless rendered incapable by Sickness or other Accident) neglect or refuse, when called upon, to appear at such Times and Places where ordered by the Colonel or Commanding Officer, there to be trained, Mustered, and exercised in Arms, and be provided with a well fixed Gun, shall forfeit and pay, if at a Private Muster, Two Shillings and Six Pence, if at a General Muster Five Shillings; and shall also be provided with a Cartouch-box, Sword, Cutlass or Hanger, and have at least Nine Charges of Powder (made into Cartridges) and sizeable Bullets of Swan Shot, and Three Spare Flints, a Worm and Picker; under the Penalty, if at a Private Muster, the Sum of Two Shillings and Six Pence, if at a general Muster, Five Shillings; to be levied by a Warrant of Distress from the Captain of the Company, directed to the Sergeant of the same; who is hereby empowered to execute the said Warrant, and distrain for the said Fines or Penalties, in the same Manner as Sheriffs are empowered to distrain for Public Taxes, and shall make Return thereof to the Captain; which Sergeant shall deduct One Shilling and Four Pence for every Fine so levied; And in Case such Sergeant or Sergeants shall neglect or refuse to serve any Warrant or Warrants to him or them so directed, he or they for such Neglect or Refusal, shall be fined Twenty Shillings; to be recovered by a Warrant from the Captain, directed to any

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280. N. C.—*Assembly, Wilmington; Recs. Clark, Vol. 23, 1904, Ch. I; Act, Jan. 30, 1764, pp. 596-601.*

other Sergeant, under the same Penalty; to be accounted for and applied as other Fines in this Act directed.

III. Provided always, That every Absentee shall be allowed till the next succeeding Muster to make his Excuse before the Captain shall issue his Warrant, unless against such Defaulters as he may suspect are about removing themselves out of the County before such Succeeding Muster; in which Case it shall and may be lawful for the Captain to issue a Summons, to cause such suspected Person to appear before him to make his Excuse for such Absence; and upon hearing the same, or upon the Person's refusing to obey such Summons, the Captain shall then proceed as to him shall seem just, and every person that shall be fined by Virtue of this Act, and shall think himself injured by his officers, may appeal to the next Court Martial, first giving Security in the Sum of Twenty Shillings, Proclamation Money, to appear and abide by the Judgment of the said Court and if Judgment shall be against him, that he will then and there pay the Fine, with Two Shillings Cost.

IV. Provided also, That no Member 'of his Majesty's Council, no Member of the Assembly, no Minister of the Church of England, no Presbyterian Minister regularly called to any Congregation in this Province, no Justice of the Superior Courts, Secretary, Practising Attorney, no Man who has bore a military Commission as high as that of a Captain, or commissioned Officer who has served in the Army, no Justice of the Peace no Clerk of the Court of Justice, practicing Physician, Surgeon, School Master, having the Tuition of Ten Scholars, Ferryman, Overseer having the Care of Six Slaves, Inspectors, Public Millers, Coroners, Constables, Overseers of Public Roads, or Branch Pilots, so long as they continue in Office, shall be obliged to inlist themselves, or appear at such Musters.

V. Provided nevertheless, That in Case any such School Master or Overseer, having the Care of Six Slaves, shall be seen in the Muster Field on the Days of General or Private Musters, they shall be liable to a Fine of Forty Shillings; to be levied by a Warrant from the Colonel or Commanding Officer, and applied as other Fines in this Act directed.

VI. And be it further Enacted, by the Authority aforesaid, That if the Captain, Lieutenant, or Ensign, or any Two of them, shall adjudge any Person or Persons, enrolled as aforesaid, to be incapable of providing and Furnishing him or themselves with the Arms, Ammunition and Accoutrements, required by this Act, every such Person shall be exempt from the Fines and Forfeitures imposed by Virtue of this Act, until such Arms, Ammunition and Accoutrements, shall be provided for and delivered him by the Court Martial, to be paid for out of the Fines already collected, and that may hereafter be collected; such Court Martial first taking Security for the safe Keeping and returning such Arms, Ammunition, and Accoutrements, when required.

VII. And be it further Enacted, by the Authority aforesaid, That the Captain of every Company within this Province, shall, and they are hereby required, to choose a Clerk, Three Sergeants, Three Corporals, and a Drummer for the said Company; Which said Clerk shall give his Attendance, with his Sword by his Side, on every Muster Day, and call over the Roll of the Company, and take Notice of the Persons who are absent on each of the said Muster Days, and return upon Oath, a true List of the Absentees to his Captain; and shall also, before the Company proceed to their Exercise, read Distinctly, and with an Audible Voice, at the Head of his Company, this Act; and if the Clerk, Sergeants or Corporals, or any of them so chosen,

shall refuse to act in the Office he is appointed to, he shall forfeit and pay the Sum of Forty Shillings.

VIII. And be it further Enacted, by the Authority aforesaid, That in Case of any Insurrection within this Province, or Invasion, it shall and may be lawful for the Governor and Commander in Chief for the Time being or any Field Officer by him directed, to raise all or so many of the militia as shall be thought necessary for opposing such Insurrection or Invasion; and the Militia so raised, shall perform such Duty or Service as they shall be required to do by their Commanding Officer; and it is hereby required and directed, that the said Militia shall appear Furnished with Arms, Ammunition, and Accoutrements as aforesaid.

IX. And be it further Enacted, by the Authority aforesaid, That every Person who shall neglect or refuse, on Call or Alarm given, to appear at such Times and Places as shall be appointed by his Captain or other Officer, shall forfeit and pay Ten Pounds Proclamation Money; to be levied by a Warrant from the Colonel or Commanding Officer for that Service, directed to the Sheriff of the County where the Offender resides; and such Sheriff who is hereby required and directed to execute the same, shall, for every Neglect or Refusal, forfeit and pay the Sum of Ten Pounds, Proclamation Money; to be recovered by Action of Debt, in any Court of Record in this Province; And any Person who shall refuse to march against the Enemy when commanded, or refuse or neglect to do his Duty, or perform the Service he is put upon by such Captain or other Officer, or shall quit his Post, desert his Colors, or Mutiny; it shall and may be lawful for One Field-Officer or more, Three Captains, Three Lieutenants, and Three Ensigns, or the Majority of them, openly to hold a Court Martial, first taking the following Oath:

You shall swear, well and truly to try and determine, according to your Evidence in the Matter now before you, between our Sovereign Lord the King and the Prisoner to be tried. So help you God.

And on Tryal and Conviction, to punish the Offender according to Martial Law, as the Nature of the Offence may require, (Death excepted;) and for Want of such Number of Officers to compleat a Court-Martial, the Offender shall be put under a Guard until such Time as there are a sufficient Number to hold a Court-Martial as aforesaid.

X. And be it Enacted by the Authority aforesaid, That the private Men when on Duty and in the actual Service of their Country, shall be allowed Two Shillings per Day each, and Eight pence per Day to the Commanding Officer for victualling each Man.

XI. And be it further Enacted, by the Authority aforesaid, That every Captain of a Company shall, within Six Months, at such Times and Places within their several Districts, as their respective Colonels shall appoint, muster his Company, and see that every soldier in his said Company be furnished with such Arms, Ammunition and Accoutrements, as in and by this Act is directed; under the Penalty of Five Pounds for each Muster he shall neglect; to be levied by Warrant or Distress from the Colonel or Commanding Officer of the County in Manner aforesaid, and to be applied as is by this Act directed; and that each and every Company shall consist of not less than Fifty Men, exclusive of Officers.

XII. And be it further Enacted, by the Authority aforesaid, That all Officers of the Militia shall be resident in the County for which they are appointed Officers.

XIII. And be it further Enacted by the Authority aforesaid, That if any Soldier shall, during the Time of Muster, resist his Commanding Officer, or

refuse his lawful Commands, such Soldier shall be punished at the Discretion of his Officer, by being tied Neck and Heels, not exceeding Fifteen Minutes, piquetted, or ride the Wooden Horse; And if any Officer or Soldier shall refuse to carry such commands into Execution, he or they so offending shall forfeit and pay the Sum of Five Pounds; to be levied by a Warrant from any Field Officer in the Regiment, and applied as other Fines mentioned in this Act.

XIV. And be it further Enacted, by the Authority aforesaid, That if any Number of Men, not less than Thirty, nor exceeding Sixty, including Officers, belonging to any of the Regiments within this Province, shall desire to form themselves into a Troop of Horse, it shall and may be lawful for such Persons, by and with the Assent of the Colonel of the Regiment, to form themselves into a Troop, and give a List of their Names to the Colonel, who shall forthwith return the same, under his Hand and Seal, to the Governor or Commander in Chief of this Province for the Time Being; and it shall and may be lawful for the said Governor or Commander in Chief, to appoint and Commissionate a Captain, Lieutenant and Cornet, to the said Troop; and when the Commanding Officers of the said Troop are ready, and shall exercise the said Troop, and not before, the Persons so enrolled in the said Troop shall be, and are exempt from their Service in the Foot Companies; and the Officers and Men of the said Troop, shall be afterwards subject to muster as many Times, as well with Regard to Private Musters as to general Musters of the County, and under the same penalties as in and by this Act before directed for the Foot to Muster.

XV. And be it further Enacted, by the Authority aforesaid, That every Trooper shall be provided with a Good serviceable Horse, not less than Fourteen Hands High, with a Good Bridle, Saddle, Holsters, Housing, Breast Plate, and Crupper; a Case of Good Pistols, a good broad Sword, Twelve Charges of Powder, Twelve sizeable Bullets, a Pair of Shoe Boots, with Suitable Spurs, and a Carbine well fixed, with a good Belt, Swivel and Bucket.

XVI. And be it further Enacted, by the Authority aforesaid, That the Colonels of each and every Regiment shall, once in every Year, cause a General Muster to be made of their respective Regiments at the Court House of their County; which if any of them shall fail or neglect to do, and fail to appear at such Musters, (Sicknes or Accident excepted) he or they so offending, shall forfeit and pay the Sum of Twenty Pounds; to be recovered by action of Debt, Bill, Complaint, or Information, in any Court of Record within this Province; one Half thereof to such Person who shall sue for the same, and the other Half to be applied as other Fines in this Act directed.

XVII. And be it further Enacted, by the Authority aforesaid, That it shall and may be lawful for the Field Officers and Captains of every County or the Major Part of them, whereof the Colonel, Lieutenant Colonel, or Major, shall be one; and they are hereby required, to meet at the Court House of their respective Counties, on the Day next following the respective General Muster which shall be in their Counties, then and there to hold a Court-Martial; which said Court shall have full Power to enquire into the Age and abilities of all Persons Inlisted, and to exempt such as they shall judge incapable of Service; and of all Neglects and Omissions, as well by any Officers as Delinquents; and to hear and Determine all Appeals which shall be made to the Court from any Officer or Soldier who may think himself unjustly fined by his Captain; and to Order and Dispose of all Fines, in the First Place, for buying Drums, Colours, and other Necessaries for the Use

of the Company from whence the same shall arise and afterwards for supplying the Militia with Arms; and the said Court is hereby directed and required to keep a Register of all their Proceedings, and for that Purpose to appoint a Clerk, and to allow him a reasonable Salary out of the Fines.

XVIII. And be it further Enacted by the Authority aforesaid, That the Court Martial of every County, shall have full Power, from Time to Time, to call the Sheriff or any other Person or Persons whatsoever to account on Oath; who shall pay to them the Monies in the Hands of him or them belonging to their respective Regiments, that have accrued, or shall or may become due by Virtue of this or any former Militia Act; And if any Sheriff or other Person shall refuse or neglect to appear, account, and pay as aforesaid, he shall forfeit and pay the Sum of Five Hundred Pounds to be recovered with Costs, by the Colonel of the Regiment to which such Money is or may become due, by Action of Debt or Information, in any Superior Court, and to be applied to the Use of the Regiment; And when any Suit shall be brought by the Colonel, and he shall happen to die, or be superceded before such Suit shall be determined, the same shall and may be carried on by the Succeeding Colonel in the Name of his Predecessor who brought such Suit; and the Death of the Colonel, or his being Displaced, shall not be pleaded in Abatement of such Suit, nor deemed Matter of Error; any Law or Usage to the Contrary notwithstanding.

XIX. And be it further Enacted, by the Authority aforesaid, That every Colonel failing to appear at such Court, and every Lieutenant Colonel or Major failing to appear at the General Muster of such Court as aforesaid, for every such Offence, shall forfeit and pay the sum of Five Pounds Proclamation Money; and every Captain failing as aforesaid, shall forfeit and pay Three Pounds; and every Lieutenant or Ensign failing to appear at the general Muster, Forty Shillings; unless they shall make such Excuse for their Absence to the next Succeeding Court as the said Court shall judge Sufficient; And every Captain, or in his Absence the Clerk of the said Company, shall return, on Oath, an exact List of the Persons who have been fined, and whether for Absence, or want of Accoutrements; and every Captain shall then and there pay into the Court, all such Fines as he shall have received; under the Penalty of Fifty Pounds; to be levied by a Warrant from the Colonel; which said Fine shall be applied as other Fines by this directed.

XX. And be it further Enacted, by the Authority aforesaid, That each and every Captain shall procure a Copy of this Act, and lodge the same with the Clerk of his Company, and be allowed for the same out of the Fines.

XXI. And be it further Enacted, by the Authority aforesaid, That no Officer or soldier, ordered and directed by this Act to appear at Muster as aforesaid, shall be liable to be taken or arrested by any Officer in any civil Action or Process whatsoever, on the Day such Person is directed to appear, in any reasonable Time, either in going to, continueing at, or returning home, from the Place appointed to muster; but every such Arrest is hereby declared to be ipso facto void; and all Officers are hereby required to take Notice thereof; any Law, Usage or Custom to the contrary notwithstanding.

XXII. And be it further Enacted by the Authority aforesaid, That every Person liable to appear or Muster, going to, or returning from any Muster, shall be suffered to pass over any Bridge, and shall be put over any Ferry without Delay free from any Charge whatsoever; And if any Ferryman shall demand, delay, or refuse to put such Person or Persons over, he shall forfeit and pay, for every such Offence, the Sum of Twenty Shillings; to be recovered by a Warrant from a Justice of the Peace; one Half to the Informer,

the other Half for the Use of the Parish wherein the Offence was committed.

XXIII. And be it further Enacted by the Authority aforesaid, That when it shall be thought quite requisite to swear any Person or Persons upon any Tryal before any Captain, about any Fines or Penalties in this Act directed, it shall and may be lawful for the said Captain to administer any such Oath.

XXIV. And be it further Enacted, by the Authority aforesaid, For the Encouragement for any Person or Persons who shall range and reconnoitre the Frontiers of this Province as Volunteers at his or their Own Expence; it shall and may be lawful for such Ranger or Rangers, in Case of an Indian War, or an Invasion of this Province by Indians, to kill or take Prisoner any Enemy Indian of what Nation soever; and on producing such Indian or Indians, his, her, or their Scalp or Scalps before any Two Justices of the Peace of this Province, that are most convenient to the Place where the said Indian or Indians shall be taken or Killed, and due Proof made thereof on Oath, of such Indian or Indians being taken or killed in this Province, and producing a Certificate thereof from the said Two Justices, together with the Indian or Indians' Scalps to the Assembly; such Person or Persons shall be intitled to Thirty Pounds, Proclamation Money, for each and every Captive or Scalp so taken and produced as aforesaid; to be paid out of the Public Treasury of this Province.

XXV. Provided nevertheless, That it shall not be lawful for any Party of Volunteers as aforesaid, to range or reconnoitre the Frontiers of this Province, without leave first had from the Colonel or Commanding Officer of the Regiment to which they belong, and under the Command of an Officer appointed by Warrant from such Colonel or Commanding Officer.

XXVI. And be it further Enacted, by the Authority aforesaid, That this Act shall be and continue in Force for and during Three Years, and no longer.

CHAPTER II.

An Act concerning Vestries.

I. Whereas making Provision for the Clergy, providing for the Poor, and the due Management of Parochial Affairs, require that a Vestry be established in each Parish in this Province, under proper Regulations:

II. Be it therefore Enacted, by the Governor, Council, and Assembly, and by the Authority of the same, That the Freeholders of each Parish shall, and are hereby directed, to meet on the First Day of August next after the passing of this Act, and on Easter Monday, in the Year of our Lord One Thousand Seven Hundred and Sixty Seven, and on Easter Monday in every Third Year thereafter, at the Court House, or Place where the County Court is commonly held, or at the usual Place of electing Vestrymen, then and there to Choose and elect Twelve Freeholders to serve as Vestrymen, Which Vestrymen so chosen shall, by the Sheriff or his Deputy, be summoned, at least Ten Days before the Time appointed for such Meeting, to meet at the Church in each respective Parish; and where there is no Church, at the Court House or Place where the County Court is held, within Thirty Days next after such Choice, to be qualified according to the Directions of this Act; And if the Sheriff shall neglect or refuse to summon, or cause to be summoned, the Vestry as aforesaid, he shall forfeit and pay the Sum of Twenty Shillings, Proclamation Money, for each and every Vestryman summoned as aforesaid,

II. Be it Enacted, by the Governor, Council, and Assembly, and by the Authority of the same, That where there hath been an election of Vestrymen, and the Vestrymen so elected have neglected or refuse to qualify, agreeable to the before Mentioned Act, that the Freeholders of every such Parish are hereby directed to meet at the usual Place of electing Vestrymen in every such Parish on Easter Monday, next after the Passing of this Act; and then and there to chuse and elect Twelve Freeholders to serve as Vestrymen which Vestrymen so chosen, shall be summoned by the Sheriff, to appear and qualify, in the same Manner, and subject to the same Fines and Penalties, and be vested with the same Powers and Authorities as other Vestrymen are by the before recited Act; and the Vestry so elected, shall serve until the next general Election of Vestrymen, to be had on Easter Monday, in the Year of our Lord One Thousand Seven Hundred and Seventy; any Thing in the before recited Act to the contrary notwithstanding.

III. And whereas by the before mentioned Act, known Dissenters from the Church of England only are subject to a Fine of Three Pounds, Proclamation Money, for refusing or neglecting to qualify when chosen Vestrymen, agreeable to the Directions of the said Act; Be it therefore Enacted by the Authority aforesaid, That every Person hereafter chosen as a Vestryman in any Parish, and summoned as by said Act directed, and refusing or neglecting to Qualify agreeable to the Directions of the said Act, shall Forfeit and Pay the sum of Three Pounds, Proclamation Money; to be recovered and applied as other Fines in the aforesaid Act directed.

IV. And be it further Enacted by the Authority aforesaid, That this and the aforementioned Act, shall continue and be in Force for and during the Term of Five Years, from and after the passing of this Act, and from thence to the End of the Next session of Assembly; any Thing in the aforesaid Act to the contrary notwithstanding.

CHAPTER III.

An Act for establishing a Militia in this Province. (a)

I. Whereas a Militia may be necessary for the Defence and safety of this Province;

II. Be it Enacted, by the Governor, Council, and Assembly, and by the Authority of the same, That all Freemen and servants within this Province, between the Age of Sixteen and Sixty, shall compose the Militia thereof; and that the several Captains of the same shall enroll the Names of all such Freemen and Servants of which their several Companies consist; and shall at their respective General Musters, return a Copy thereof to the Colonel of their respective Regiments; under the Penalty of Five Pounds Proclamation Money; to be levied by a Warrant of Distress from the Colonel of the Regiment, directed to the Sheriff of the County to which the said Regiment belongs; which Sheriff shall be paid out of the said Penalty the Sum of Ten Shillings; And in Case any Sheriff shall neglect or refuse to serve such Warrant, he shall forfeit and pay the Sum of Five Pounds; to be recovered by Action of Debt, in any Court of Record, and be applied as hereinafter directed; Which Copy so returned, shall by every Colonel, be returned to the Governor or Commander in Chief for the Time Being; under the like Penalty; And that all Persons after being so enrolled, who shall at any Time (unless rendered incapable by Sickness or other Accident) neglect or refuse, when called upon, to appear at such Times and Places where ordered by the Colonel or Commanding Officer, there to be mustered, trained, and exercised

in Arms; and be provided with a Well fixed Gun, shall forfeit and pay, if at a Private Muster, Five Shillings, if at a General Muster Ten Shillings; and shall also be provided with a Cartouch Box, Sword, Cutlass, or Hanger, and have at least Nine Charges of Powder, made into Cartridges, and sizeable Bullets or Swan Shot, and Three Spare Flints, a Worm and Picker; under the Penalty if at a Private Muster, the Sum of Two Shillings and Six Pence, if at a General Muster, Five Shillings; to be levied by a Warrant of Distress, from the Captain of the Company, directed to the Sergeant of the same; who is hereby impowered to execute the said Warrant, and distrain for the said Fines and Penalties, in the same Manner as Sheriffs are impowered to distrain for public Taxes, and shall make return thereof to the Captain; which Sergeant shall deduct One Shilling and Four Pence, out of every Fine so levied: And in case such Sergeant or Sergeants shall neglect or refuse to serve any Warrant or Warrants to him or them so directed, he or they for such neglect or Refusal, shall be fined Twenty Shillings; to be recovered by a Warrant from the Captain, directed to any other Sergeant; under the same Penalty; to be accounted for, and applied as other Fines in this Act directed.

III. Provided always, That every Absentee shall be allowed till the next succeeding Muster to make his Excuse, before the Captain shall issue his Warrant; unless against such Defaulters as he may suspect are about removing themselves out of the County before such succeeding Muster; in which Case it shall and may be lawful for the Captain to issue a Summons to cause such suspected Person to appear before him, to make his Excuse for such absence; and upon hearing the same, or upon the Persons refusing to obey such Summons, the Captain shall then proceed as to him shall seem just; And every Person that shall be fined by Virtue of this Act, and shall think himself injured by his Officers, may appeal to the next Court Martial, first giving Security in the Sum of Twenty Shillings, Proclamation Money, to appear and abide by the Judgment of the said Court; and if Judgment shall be against him, that he will then and there pay the Fine, with Two Shillings Cost.

IV. Provided also, That no Member of his Majesty's Council, no Member of the Assembly, no Minister of the Church of England, no Presbyterian Minister regularly called to any Congregation in this Province, no Justice of the Superior Courts, Secretary, practising Attorney, no Man who has bore a military Commission as high as that of a Captain, or Commissioned Officer who has served in the Army, no Justice of the Peace, no Clerk of the Court of Justice, practising Physician, Surgeon, School Master, having the Tuition of Ten Scholars, Ferryman, Overseer, having the care of Six Taxable Slaves, Inspectors, Public Millers, Coroners, Constables, Overseers of Public Roads, Searchers or Branch Pilots, so long as they continue in Office, shall be obliged to enlist themselves, or appear at such Musters.

V. Provided nevertheless, That in Case any such Overseer, having the Care of Six Taxable Slaves, shall be seen in the Muster Field on the Days of general or Private Musters, they shall be liable to a Fine of Forty Shillings; to be levied by a Warrant from the Colonel or Commanding Officer, and applied as other Fines in this Act directed.

VI. And be it further Enacted, by the Authority aforesaid, That if the Captain, Lieutenant, or Ensign, or any Two of them, shall adjudge any Person or Persons enrolled as aforesaid, to be incapable of providing and furnishing him or themselves with arms, Ammunition, and Accoutrements, required by this Act, every such Person shall be exempt from the Fines and Forfeitures imposed by Virtue of this Act, until such Arms, ammunition, and Accoutrements shall be provided for and delivered him by the Court Martial;

to be paid for out of the Fines already collected, and that may hereafter be collected; such Court Martial first taking Security for the Safe Keeping, and returning such Arms, Ammunition, and Accoutrements, when required.

VII. And be it further Enacted, by the Authority aforesaid, That the Captain of every Company within this Province, shall, and they are hereby required to chuse a Clerk, three Sergeants, three Corporals, and a Drummer, for the said Company; Which said Clerk shall give his Attendance, with his Sword by his Side, on every Muster Day, and call over the Roll of the Company, and take Notice of the Persons who are absent on each of the said Muster Days; and return upon Oath, a true List of the Absentees to his Captain; and shall also, before the Company proceed to their Exercise, read distinctly, and with an audible Voice, at the Head of his Company, this Act, and if the Clerk, Sergeants, or Corporals, or any of them so chosen, shall refuse to act in the Office he is appointed to, he shall forfeit and pay the sum of Forty Shillings.

VIII. And be it further Enacted, by the Authority aforesaid, That in Case of any Insurrection within this Province, or Invasion, it shall and may be lawful for the Governor, or Commander in Chief for the time being, or any field Officer by him directed, to raise all, or so many of the Militia, as shall be thought necessary for opposing such Insurrection or Invasion; and the Militia so raised, shall perform such Duty or Service as they shall be required to do by their commanding Officer; and it is hereby required and directed, that the said Militia shall appear furnished with Arms, Ammunition, Accoutrements as aforesaid.

IX. And be it further Enacted, by the Authority aforesaid, That every Person who shall neglect or refuse, on Call or alarm given, to appear at such Times and Places as shall be appointed by his Captain or other Officer, shall forfeit and pay Ten Pounds, Proclamation Money; to be levied by a Warrant from the Colonel or Commanding Officer, for that service, directed to the Sheriff of the County where the Offender resides; And such Sheriff who is hereby required and directed to execute the same, shall, for every Neglect or Refusal, forfeit and pay the Sum of Ten Pounds, Proclamation Money; to be recovered by Action of Debt, in any Court of Record in this Province; And any Person who shall refuse to March against the Enemy when Commanded; or refuse or neglect to do his Duty, or Perform the Service he is put upon by such Captain or other Officer; or shall quit his Post, desert his Colours, or Mutiny, it shall and may be lawful for One Field Officer, or more, three Captains, Three Lieutenants, and three Ensigns, or the Majority of them, openly to hold a Court Martial; first taking the following Oath:

You shall swear, well and truly to try and determine, according to your Evidence in the Matter now before you, between our Sovereign Lord the King and the Prisoner to be tried. So help you God.

And on Tryal and Conviction, to punish the Offender according to Martial Law, as the Nature of the Offence may require (Death excepted) and for Want of such Number of Officers to compleat a Court Martial, the Offender shall be put under a Guard, until such Time as there are a sufficient Number to hold a Court Martial as aforesaid.

X. And be it further Enacted, by the Authority aforesaid, That the respective Officers of the Militia, and the Private Men, when in actual Service, shall, from the Day they are ordered on Duty, be paid according to the Rates following, to-wit:

	£.	s.	d.
A Colonel per Day.....	0.	12.	6.

A Lieutenant Colonel per day.....	0.	10.	0.
A Major per Day.....	0.	10.	0.
A Captain per Day.....	0.	7.	6.
An Adjutant per Day.....	0.	7.	6.
A Lieutenant and Chirurgeon, each per Day.....	0.	5.	0.
An Ensign per Day.....	0.	4.	6.
A Sergeant per Day.....	0.	4.	0.
A Corporal and Drummer, each per Day.....	0.	3.	0.
Every Private Man per Day.....	0.	2.	0.

And Eight Pence per Day, to the Commanding Officer for victualing each Man.

XI. And be it further Enacted, by the Authority aforesaid, That every Captain of a Company shall, once within every Four Months, at such Times and Places within their several Districts, as their respective Colonels shall appoint, muster his Company; and see that every Soldier in his said Company be furnished with such Arms, Ammunition, and Accoutrements, as in and by this Act is directed; under the Penalty of Three Pounds, for each Muster he shall neglect; to be levied by a Warrant of Distress from the Colonel or Commanding Officer of the County, in Manner aforesaid, and be applied as by this Act is Directed: and that each and every Company shall consist of not less than Fifty Men, exclusive of Officers.

XII. And be it further Enacted by the Authority aforesaid, That all Officers of the Militia shall be resident in the County for which they are appointed Officers.

XIII. And be it further Enacted, by the Authority aforesaid, That if any Soldier shall, during the Time of Muster, resist his Commanding Officer, or refuse his Lawful Commands, such Soldier shall be punished at the Discretion of his Officer, by being tied Neck and Heels, not exceeding Fifteen Minutes, picqueted, or ride the Wooden Horse; And if any Officer or Soldier shall refuse to carry such Commands into Execution, he or they so Offending, shall forfeit and pay the Sum of Five Pounds; to be levied by a Warrant from any Field Officer in the Regiment, and applied as other Fines mentioned in this Act.

XIV. And be it further Enacted, by the Authority aforesaid, That if any Number of Men, not less than Thirty, nor exceeding Sixty, including Officers, belonging to any of the Regiments within this Province, shall desire to form themselves into a Troop of Horse, it shall and may be lawful for such Persons, by and with the Assent of the Colonel of the Regiment, to form themselves into a Troop; and give a list of their Names to the Colonel; who shall forthwith return the same, under his Hand and Seal, to the Governor or Commander in Chief of this Province for the Time Being; And it shall and may be lawful for the said Governor, or Commander in Chief, to appoint and commissionate a Captain, Lieutenant, and Cornet, to the said Troop; and when the Commanding Officers of the said Troop are ready, and shall exercise the said Troop, and not before, the Persons so enrolled in the said Troop shall be, and are exempt from their Service in the Foot Companies: And the Officers and Private Men of the said Troop, shall afterwards be subject to muster as many Times, as well with Regard to Private Musters as to General Musters of the County, and under the same Penalties, as in and by this Act before directed for the Foot Muster.

XV. And be it further Enacted, by the Authority aforesaid, That every Trooper shall be provided with a good, serviceable Horse, not less than Fourteen Hands High, with a Good Bridle, Saddle, Housing, Holsters, Breast

plate, and Crupper, a Case of good Pistols, a good, Broad Sword, Twelve charges of Powder, Twelve sizeable Bullets, a Pair of Shoe Boots, with Suitable Spurs, and a Carbine well fixed, with a good Belt, swivel and Bucket.

XVI. And be it further Enacted by the Authority aforesaid, That the Colonels of each and every Regiment, shall, once in every Year, cause a general Muster to be Made of their respective Regiments, at the Court House of their County; which if any of them shall fail or neglect to do, and fail to appear at such Musters (Sickness or Accident excepted) he or they so Offending shall forfeit and pay the Sum of Twenty Pounds; to be recovered by Action of Debt, Bill, Plaint, or Information, in any Court of Record within this Province; One Half thereof to such Person who shall sue for the same, and the other Half to be applied as other Fines in this Act directed.

XVII. And be it further Enacted by the Authority aforesaid, That it shall and may be lawful for the Field Officers and Captains of every County, or the Major Part of them, whereof the Colonel, Lieutenant Colonel or Major shall be one; and they are hereby directed and required to meet at the Court House of their respective Counties, on the Day next following their respective general Musters which shall be in their Counties; then and there to hold a Court Martial; which said Court shall have full Power to inquire into the Age and Abilities of all Persons inlisted, and exempt such as they shall judge incapable of Service; and of all Neglects and Omissions, as well by any Officers as Delinquents; and to hear and determine all Appeals which shall be made to the Court from any Officer or Soldier who may think himself unjustly Fined by his Captain, and to order and dispose of all Fines; in the First Place for buying Drums, Colours, and other Necessaries for the Use of the Company from whence the same shall arise, and afterwards with supplying the Militia with Arms; and the said Court is hereby directed and required, to keep a Register of all their Proceedings; and for that Purpose to appoint a Clerk, and to allow him a Reasonable Salary out of the Fines.

XVIII. And be it further Enacted, by the Authority aforesaid, That the Court Martial of every County shall have full Power, from Time to Time, to call the Sheriff, or any other Person or Persons whatsoever, to account on Oath, who shall pay to them the Monies in the Hands of Him or them belonging to their respective Regiments, that have accrued, or shall or may become due by Virtue of this or any former Militia Act: And if any Sheriff or other Person shall refuse or neglect to appear, account, and pay as aforesaid, he shall forfeit and pay the Sum of One Hundred Pounds; to be recovered with Costs, by the Colonel of the Regiment to which such Money is or may become due, by Action of Debt or Information, in any Superior Court; and to be applied to the Use of the Regiment; And when any Suit shall be brought by the Colonel, and he shall happen to die, or be superceded before such Suit shall be determined, the same shall and may be carried on by the Succeeding Colonel, in the Name of his Predecessor who brought such Suit; and the Death of the Colonel, or his being displaced, shall not be pleaded in abatement of such Suit, nor be deemed Matter of Error; Any Law or Usage to the Contrary notwithstanding.

XIX. And be it further Enacted by the Authority aforesaid, That every Colonel failing to appear at such Court, and every Lieutenant Colonel or Major failing to appear at the general Muster, or such Court as aforesaid, for every such Offence, shall forfeit and pay the Sum of Five Pounds, Proclamation Money; and every Captain failing as aforesaid, shall forfeit and pay Three Pounds; and every Lieutenant or Ensign failing to appear at the general Muster, Forty Shillings; unless they shall make such Excuse for

their Absence to the next succeeding Court as the said Court shall judge sufficient: And every Captain, or in his Absence the Clerk of the said Company, shall return, on Oath, an exact List of the Persons who have been Fined, and whether for Absence or Want of Accoutrements; and every Captain shall then and there pay into the Court all such Fines as he shall have received, under the Penalty of Fifty Pounds, to be levied by a Warrant from the Colonel; which said Fine shall be applied as other Fines by this Act are directed.

XX. And be it further Enacted, by the Authority aforesaid, That each and every Captain shall procure a Copy of this Act, and lodge the same with the Clerk of his Company, and be allowed for the same out of the Fines.

XXI. And be it further Enacted, by the Authority aforesaid, That no Officer or Soldier ordered and directed by this Act to appear at Muster as aforesaid, shall be liable to be taken or arrested by any Officer in any civil Action or Process whatsoever, on the Day such Person is directed to appear, in any reasonable Time, either in going to, continueing at, or returning home from the Place appointed to Muster, but every such Arrest is hereby declared to be ipso facto Void; and all Officers are hereby required to take Notice thereof; any Law, Usage, or Custom, to the contrary, notwithstanding.

XXII. And be it further Enacted by the Authority aforesaid, That every Person liable to appear or Muster, going to, or returning from any Muster, shall be suffered to pass over any Bridge, and shall be put over any Ferry, without Delay, free from any Charge whatsoever; And if any Ferryman shall demand, delay, or refuse, to put such Person or Persons over, he shall forfeit and pay for every such Offence the Sum of Twenty Shillings; to be recovered by a Warrant from a Justice of the Peace; one Half to the Informer, the other Half for the Use of the Parish wherein the Offence was Committed.

XXIII. And be it further Enacted, by the Authority aforesaid, That when it shall be thought requisite to swear any Person or Persons upon any Trial before any Captain, about any Fines or Penalties in this Act directed, it shall and may be lawful for the said Captain to administer any such Oath.

XXIV. And be it further Enacted, by the Authority aforesaid, That this Act shall be and continue in Force for and during the Term of Five Years, and no Longer.

CHAPTER IV.

An Act to direct Sheriffs in levying Executions, and the Disposal of Lands, Goods, and Chattels, taken thereon. Expunged.

CHAPTER V.

An Act to explain and amend an Act, entitled, An Act for dividing this Province into Six several Districts; and for establishing a Superior Court of Justice in each of the said Districts, and regulating the Proceedings therein, and for providing adequate Salaries for the Chief Justice, and Associate Justices of the said Superior Courts.

IV. And be it further Enacted by the Authority aforesaid, That it shall and may be lawful for any Associate Justice of the said Superior Courts to receive the same Fees and Perquisites which the Chief Justice might take, or would be entitled to receive, for taking the Probate or Acknowledgement of any Deed, Letter of Attorney, Private Examination of Feme Coverts,

and no more; anything in the above recited Act to the Contrary notwithstanding.

V. Whereas, the Public Ware House at Pace's Landing on Roanoke River in Northampton County is found to be of no Use: Be it Enacted by the Authority aforesaid, That the said Ware House shall henceforth cease to be a public Ware House.

CHAPTER VI.

An Act to amend & Continue An Act, Intitled An Act for Appointing a Militia.

I. Whereas, an Act for appointing a Militia passed at a General Assembly held at Wilmington on the thirtieth day of January, in the year of our Lord One Thousand Seven hundred & Sixty four, was to continue and be in force for and during the Term of Three Years and no longer, and is now near expiring, & it being found Necessary that the said Act should be amended and continued,

II. Be it therefore Enacted by the Governor, Council and Assembly, and by the Authority of the same, That the Provincial Troops appointed to Garrison Fort Johnston at the mouth of Cape Fear, in this Province, be and are hereby declared to be subject to the Rules of Military Discipline according to the Several Acts of Parliament and Articles of War for Regulating the forces employed in his Majesty's Service; and whereas, there are not a Sufficient Number of Commissioned Officers belonging to the said Garrison to hold a Court Martial for the Trial and punishment of any Soldier or Soldiers for any Crime or Offence done or Committed by any of them, belonging to the said Garrison.

III. Be it therefore Enacted by the Authority aforesaid, That the Governor or Commander-in-Chief for the Time being on Complaint of the Commanding Officer of said Fort, is hereby impowered to Issue his Warrant thereby Appointing & Commanding as many Commissioned Officers belonging to the Regiment of the Militia of Brunswick County as may be necessary to constitute a Court Martial for the purposes aforesaid, which said Court Martial is hereby Authorized and impowered to proceed to the Trial & passing of Sentence against such Soldier or Soldiers in the same manner & under the same Regulations as directed by the said Several Acts of Parliament & Articles of War—Death Excepted.

IV. And be it further Enacted by the Authority aforesaid, That this Act & the Act before recited as by this Act amended, shall be & continue in force from & after the passing of the same & until the end of the next Session of Assembly and no longer.

CHAPTER VII.

An Act to amend an Act Intitled, an Act for rendering more effectual the laws making Lands and other real Estates liable to the payment of debts.

I. Whereas, an Act of Assembly passed at Wilmington the twenty-fifth day of October, in the Year of our Lord One Thousand Seven hundred and Sixty four, Intitled an Act for rendering more effectual the laws making Lands and other real Estates liable for the payment of debts, hath by Experience been found Injurious and of pernicious Tendency, for Remedy whereof,

270. N. C.—*Assembly, New Bern; Recs. Clark, 1906, Vol. 25, Ch. VI; Act, Nov. 3, 1766, p. 496.*

the Penalties aforesaid The Sheriff shall and is hereby empowered and directed to make Distress upon the Estate of such Person or Persons for the Penalties aforesaid, in the same Manner as by Law he is impowered to make Distress for Public, County and Parish Taxes, and shall account with and pay the same to the Justices of his County under the same rules, pains and penalties and have and receive the same allowances as for receiving, accounting for and paying Public, County and Parish Taxes, which penalties shall, by the Justices, be applied towards defraying the County Charges.

VI. And be it further Enacted by the Authority aforesaid, That this Act shall be and continue in force for and during the Term of One Year from and after the passing thereof, and no longer.

CHAPTER XIX.

An Act to Continue the Acts therein mentioned for appointing a Militia.

I. Whereas, an Act for appointing a Militia Passed at a General Assembly held at Wilmington on the Thirteenth day of January, in the year of Our Lord One thousand Seven hundred and Sixty four; was to continue and be in force for and during the Term of Three Years and no longer, which said Act was amended and Continued by an Act of the General Assembly held at New Bern on the Third day of November, in the Year of our Lord One Thousand seven hundred and Sixty six, intituled an Act to amend and Continue an Act, Entitled an Act for appointing a Militia, and was to be and Continue in force until the end of the next session of the Assembly, and no longer. And it being found necessary that the said Act be further Continued.

II. Be it therefore Enacted by the Governor, Council and Assembly, and by the Authority of the same, that the before recited Acts be and remain in force until the next Session of the Assembly and no longer.

CHAPTER XXIII.

An Act to amend an Act intituled an Act for the Regulation of the Town of Wilmington.

I. Whereas, by the before recited Act the Commissioners of the Town of Wilmington have no Power to Levy or recover any fines or forfeitures from persons refusing or Neglecting to work on the Streets of the said Town, reference being therein had to an Act of Assembly for appointing Commissioners of the roads in several Counties, which Act has been since repealed,

II. Be it therefore Enacted by the Governor, Council and Assembly, and by the Authority of the same, That from and after the Passing of this Act all fines and forfeitures which shall or may become due from any person or persons refusing or Neglecting to work on the Streets or other Publick places in the said Town, by order of the Commissioners appointed by this Act, shall be recovered by Distress and Sale of the offenders goods & Chattels, by Virtue of a Warrant under the hands and Seals of the said Commissioners, or the Majority of them, Directed to one of the Constables, who shall and he is hereby Impowered to Levy the same by Sale of the Offenders goods at Public Vendue, to the highest bidder, and the said constable

LAWS OF NORTH CAROLINA, 1770.

At an Assembly begun and held at New Bern, the Fifth Day of December, in the eleventh Year of the Reign of our Sovereign Lord George the Third, by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c., and in the Year of our Lord One Thousand Seven Hundred and Seventy; being the first Session of this present Assembly. *William Tryon, Esq.*, Governor.

CHAPTER I.

An Act for Preventing Tumults and Riotous Assemblies, for the more speedy and effectual punishing the Rioters, and for restoring and preserving the Public Peace of this Province.

(Printed in Private Acts, *post*).

CHAPTER II.

An Act to encourage the further Settlement of this Province.

(Printed in Private Acts, *post*).

An Act for founding, establishing, and endowing of Queen's College, in the Town of Charlotte, in Mecklenburg County.

(Printed in Private Acts, *post*).

CHAPTER IV.

An Act for an Addition to, and Amendment of an Act, entitled, An Act for Appointing 'a Militia.

I. Whereas there are in divers parts of this Province several of the People called Quakers, who demean themselves in a quiet and Peaceable Manner, and from a religious Principle, are conscientiously scrupulous of bearing Arms, or appearing or answering to their Names in Muster Fields, and therefore subject to many Fines and Distresses to be made upon their Goods, to their great Hurt and Prejudice: For the Relief of such,

II. Be it Enacted by the Governor, Council, and Assembly, and by the Authority of the same, That from and after the passing of this Act, the People called Quakers shall not be obliged to appear and muster at any general or Private Muster within this Province, nor be liable to any Fines or Penalties for not appearing and mustering; any Law, Usage, or Custom to the contrary, notwithstanding.

III. Provided nevertheless, and be it Enacted by the Authority aforesaid, That the Colonel or Chief Commanding Officer of the Militia in every County shall list all Male Persons of the people called Quakers, between the age of Sixteen and Sixty, within his County, under the Command of such Captain as the Governor, or Commander in Chief for the Time Being, shall think fit: And if upon any Invasion or Insurrection, the Militia of the Counties to

which such Quakers belong shall be drawn out into actual service, and any Quakers so enlisted shall refuse to serve, or provide an able and sufficient Substitute in his Room, if thereto required by the Colonel, or Chief Officer of the Militia of his County; in such Case, every Quaker so refusing to serve, or provide a Substitute as aforesaid, shall forfeit and pay Ten Pounds; to be recovered before any Justice of the Peace of the County, upon Complaint of the Colonel or Chief Officer; and to be levied by Distress and Sale of the Estate of the Quaker so refusing; which Sum shall be applied, by the said Colonel or Chief Officer, towards providing a Substitute in the Room of such Quaker, upon whom the same shall be levied as aforesaid.

IV. Provided always, That the Number of Quakers required by the Colonel or Chief Officer of any County to serve, or find Substitutes as aforesaid, shall not exceed the Proportion the whole Number of Quakers bear to the whole Number of Militia upon the Muster Rolls of the said County.

V. Provided also, and be it further Enacted by the Authority aforesaid That no man under the Denomination of a Quaker shall be exempted from Musters and bearing Arms, or from paying such Fines and Forfeitures as by Law inflicted, in Case of Refusal or Neglect, without producing, if required by the Colonel or Chief Officer of the Militia, a Testimonial or Certificate from the Monthly Meeting, that he is considered and excepted a Member of that Society.

* VI. Whereas by the before recited Act, Sundry Fines are directed to be paid by Persons who neglect or refuse to appear at Musters, or on Call or alarm given, to appear at such Times and Places as shall be appointed; and there being no Provisions made in the said Act, or by whom the Fines are to be Paid, of such Persons who are under age, or are Apprentices or Servants: Be it therefore Enacted by the Authority aforesaid, That the Father or where there is no Father living, the Mother of each and every Person under the age of Twenty One Years, shall be liable to the Payment of the Fines becoming due from their respective sons so under age; and the master, and where there is no master, the mistress of all such Apprentices and Servants shall be liable to the Payment of Fines becoming Due from their respective Apprentices and Servants; and shall and may be Proceeded against by the Officers of the Militia to recover the same, in the same Manner as is directed by the said Act against other Persons for the Recovery of the Fines imposed by the said Act.

VII. And be it further Enacted, by the Authority aforesaid, That no Person whatsoever shall be obliged to appear at any General or Private Muster, until he has been an Inhabitant of this Province Six Months; any Thing in the before Recited Act to the contrary notwithstanding.

VIII. And be it further Enacted, That this Act shall continue and be in Force for and during the Space of Five Years, and from thence to the End of the next Session of Assembly, and no longer.

CHAPTER V.

An Act to Ascertain Attornies Fees.

I. Whereas it is necessary to ascertain what Fees Attornies may lawfully take and receive for their Trouble in conducting Causes in the respective Courts in this Province:

II. Be it therefore Enacted by the Governor, Council, and Assembly, and by the Authority of the same That it shall and may be lawful for each and

heretofore had, held, and enjoyed, due respect being had to the several limitations and Restrictions in this law heretofore mentioned.

XLIII. And be it further enacted by the Authority aforesaid, that the time elapsed since the expiration of the late Inferior Court Law to the passing of this Act, shall not be allowed of in any Plea of Limitation, or in the computation of time allowed for proving accounts under the Act ascertaining the method of proving Book debts.

XLIV. And be it further enacted by the Authority aforesaid, that the Sheriff of each respective County of this Province shall five days at least before the sitting of each respective Inferior Court to be held after the passing of this Act Summon Twenty-four Freeholders to serve on the Grand Jury, and Twelve Freeholders to serve on the Petit Jury to attend at such Court respectively which said Jurors shall appear and give their attendance accordingly till discharged by the Court, and that there may not be a default of Jurors, it shall and may be lawful during the sitting of the Court for the Sheriff by order of the said Court to summon of the by-standers other Jurors to serve on the Petit Jury from day to day, and on any day of the said Court the Justices may discharge those who have served the preceding day.

XLV. And to enforce the attendance of Jurymen at the said Court, Be it enacted by the Authority aforesaid, that every Person, who shall hereafter be summoned in virtue of this Act to appear either as a Grand or Petit Juror at any of the said Courts and shall fail to appear and give his attendance till discharged by order of the Court, such Person so failing to appear or give his attendance till discharged, shall be fined forty shillings by the Justices of the said Court to be applied towards defraying the charges of the County and lessening the County tax, unless he shall shew sufficient cause to the next succeeding Court for such failure.

XLVI. And be it further enacted by the Authority aforesaid, that this Act shall continue and be in force during the Term of one year, and from thence to the end of the next Session of Assembly, and no longer.

CHAPTER II.

An Act to Establish a Militia for the Security and Defence of this Province.

Whereas a Militia may be necessary for the defence and safety of this Province.

I. Be it Enacted by the Governor, Council and Assembly and by the Authority of the same That all Freemen and Servants within this province between the Age of Sixteen and Sixty shall compose the Militia thereof and that the several Captains of the same shall Enroll the names of all such Freemen and Servants of which their several Companies consist and shall at their respective General Musters return a Copy thereof to the Colonel of their respective Regiments under the Penalty of Five Pounds Proclamation money to be levied by a Warrant of Distress from the Colonel of their Regiment directed to the Sheriff of the County to which the said Regiment belongs which Sheriff shall be paid out of the said Penalty the sum of ten Shillings: and in case any Sheriff shall neglect or refuse to serve such Warrant he shall forfeit and pay the sum of five pounds to be recovered by action of Debt in any court of Record and be applied as hereinafter directed which Copy so returned shall by every Colonel be returned to the Governor or Commander in Chief for the time being under the like Penalty and that all persons after being so Enrolled who shall at any time (Unless

rendered incapable by sickness or other accident) neglect or refuse when called upon to appear at such times and places where Ordered by the Colonel or Commanding Officer, there to be mustered, Trained and exercised in Arms and be provided with a well fixed Gun shall forfeit and pay if at a private Muster five Shillings, if at a General Muster Ten Shillings and shall also be provided with a Cartouch Box, Sword, Cutlass, or Hanger, and have at least Nine Charges of powder made into Cartridges and sizeable Bullets or Swann Shot and three Spare Flints a Worm and a picker under the Penalty if at a private Muster the Sum of two Shillings and Six pence if at a General Muster Five Shillings to be levied by a Warrant of distress from the Captain of the Company directed to the Serjeant of the same who is hereby empowered to Execute the said Warrant and distrain for the said Fines and Penalties in the same manner as Sheriffs are empowered to distrain for public Taxes and shall make return thereof to the Captain which Serjeant shall deduct one Shilling and four pence out of every Fine so levied and in Case such Serjeant or Serjeants shall neglect or refuse to serve any Warrant or Warrants to him or them so directed he or they for such Neglect or refusal shall be fined Twenty Shillings to be recovered by a Warrant from the Captain directed to any other Serjeant under the same Penalty to be accounted for and applied as other fines in this Act directed.

II. Provided always, That every Absentee shall be allowed till the next succeeding muster to make his excuse before the captain shall issue his Warrant unless against such Defaulters as he may Suspect are about removing themselves out of the County before such succeeding muster in which Case it shall and may be lawful for the Captain to issue a Summons to cause such suspected person to appear before him to make his Excuse for such absence and upon hearing the same or upon the persons refusing to obey such summons the Captain shall then proceed as to him shall seem just and every Person that shall be fined by virtue of this Act and shall think himself injured by his Officers may appeal to the next Court Marshall first giving Security in the Sum of Twenty Shillings Proclamation Money to appear and abide by the Judgment of the said Court and if Judgment shall be against him that he will then and there pay the fine with two shillings Costs.

III. Provided also, That no member of his Majesty's Council, no member of Assembly, no Minister of the Church of England, no Protestant Dissenting Minister regularly called to any Congregation in this Province, no Justice of the Superior Courts, Secretary, Practising Attorney, no man who has borne a Military Commission as high as that of a Captain or Commissioned Officer who has served in the army, no Justice of the Peace, nor any Person who hath acted under a Commission of the Peace, no Clerk of the Court of Justice, Practicing Physician, Surgeon, Schoolmaster having the Tuition of ten Scholars, Ferryman, Overseer having the care of six Taxable Slaves, Inspectors, Public Millers, Coroners, Constables, Overseers and Commissioners of Public Roads, Searchers, or Branch Pilots so long as they continue in office shall be obliged to enlist themselves or appear at such musters.

IV. Provided nevertheless, That in case any such Overseer having the Care of six Taxable Slaves shall be seen in the muster Field on the days of General or Private musters they shall be liable to a Fine of forty shillings to be levied by a Warrant from the Colonel or Commanding Officer and applied as other Fines in this Act directed.

V. And be it further Enacted by the Authority aforesaid, That if the Captain, Lieutenant, or Ensign, or any two of them shall adjudge any Person or Persons enrolled as aforesaid to be incapable of Providing and furnishing

him or themselves with Arms, Ammunition and accoutrements required by this Act every such person shall be exempt from the fines and forfeitures imposed by virtue of this Act until such Arms, Ammunition, and Accoutrements shall be provided for and delivered him by the Court Martial to be paid for out of the Fines already collected and that may be hereafter collected such Court Martial first taking security for the safe keeping and returning such Arms, Ammunition and Accoutrements when required.

VI. And be it further Enacted by the authority aforesaid, That the Captain of every Company within this province shall and they are hereby required to Choose a Clerk, three Serjeants, three Corporals and a Drummer for the said company which said Clerk shall give his attendance with his Sword by his side on every Muster day and call over the Roll of the Company and take notice of the Persons who are absent on each of the said Muster days and return upon Oath a true list of the Absentees to his Captain and shall also before they proceed to their Exercise read distinctly and with an Audible Voice at the head of his Company this Act and if the Clerk, Serjeants, or Corporals, or any of them so Chosen shall refuse to Act in the Office he is appointed to he shall forfeit and pay the sum of Forty Shillings.

VII. And be it further enacted by the Authority aforesaid that in case of any Insurrection within this province or Invasion it shall and may be lawful for the Governor or Commander in Chief for the time being or any Field Officer by him directed to raise all or so many of the Militia as shall be thot necessary for opposing such Insurrection or Invasion and the Militia so raised shall perform such Duty or Service as they shall be required to do by their commanding officer and it is hereby required and directed that the said Militia shall appear furnished with Arms, Ammunition and Accoutrements as aforesaid.

VIII. And be it further enacted by the Authority aforesaid, That every Person who shall neglect or refuse on call or Alarm given to appear at such times and places as shall be appointed by his Captain or other Officer shall forfeit and pay Ten Pounds Proclamation Money to be levied by a Warrant from the Colonel or Commanding Officer for that service directed to the Sheriff of the County where the offender resides and such Sheriff who is hereby directed and required to Execute the same shall for every neglect or refusal forfeit and pay the sum of Ten Pounds Proclamation Money to be recovered by Action of Debt in any Court of Record in this Province and any Person who shall refuse to March against the Enemy when Commanded or refuse or Neglect to do his duty or perform the Service he is put upon by such Captain or other Officer or shall quit his post, desert his Colours or Mutiny, it shall and may be lawful for one Field Officer or more, three Captains, three Lieutenants and three Ensigns or the Majority of them openly to hold a Court Martial first taking the following Oath towit:

You shall swear well and truly to try and determine according to your Evidence in the matter now before you between our sovereign Lord the King and the Prisoner to be tried, So help you God.

And on Tryal and Conviction to Punish the Offender according to Martial Law as the nature of the offence may require (death excepted) and for want of such number of officers to Compleat a Court Martial the offender shall be put under a Guard until such time as there are a sufficient number to hold a Court Martial aforesaid.

IX. And be it further Enacted by the Authority aforesaid, That the respective Officers of the Militia and the private men when in Actual Service shall from the day they are Ordered on duty be paid according to the rates following to-wit:

A Colonel p. day.....	12s 6d
A Lieutenant p. day.....	10s
A Major p. day.....	10s
A Captain p. day.....	7s 6d
An Aujutant p. day.....	7s 6d
A Lieutenant and Chirurgeon each p. day.....	5s
An Ensign p. day.....	4s 6d
A Clerk p. day.....	4s
A Serjeant p. day.....	4s
A Corporal and Drummer each p. day.....	3s
Every private Man p. day.....	2s
And Eight pence p. day to the Commanding Officer for victualing each Man.	

X. And be it further Enacted by the Authority aforesaid, That every Captain of a Company shall once within every Six Months at such times and places within their Several Districts as their respective Colonels shall appoint muster his Company and see that every Soldier in his said Company be furnished with such Arms, Ammunition and Accoutrements as in and by this Act is directed under the Penalty of three pounds for each Muster he shall neglect to be levied by a Warrant of Distress from the Colonel or Commanding Officer of the County in Manner aforesaid and be applied as by this Act is directed and that each and every Company shall consist of not less than fifty men exclusive of Officers.

XI. And be it further Enacted by the Authority aforesaid, That all Officers of the Militia shall be resident in the County for which they are appointed Officers.

XII. And be it further Enacted by the Authority aforesaid, That if any Soldier shall during the time of Muster resist his Commanding Officer or refuse his Lawful Commands such Soldier shall be punished at the discretion of his officer by being tied Neck and Heels not exceeding fifteen minutes, picqueted or ride the Wooden horse and if any Officer or Soldier shall refuse to Carry such Commands into execution he or they so offending shall forfeit and pay the sum of five pounds Proclamation Money to be levied by a Warrant from any Field Officer in the Regiment and applied as other Fines mentioned in this Act.

XIII. And be it further Enacted by the Authority aforesaid, That if any Number of Men not less than thirty nor exceeding Sixty including officers belonging to any of the Regiments within this province shall desire to form themselves into a Troop of Horse it shall and may be lawful for such persons by and with the Assent of the Colonel of the Regiment to form themselves into a Troop and give a list of their names to the Colonel who shall forthwith return the same under his Hand and Seal to the Governor or Commander in Chief of this province for the time being and it shall and may be lawful for the said Governor or Commander in Chief to appoint and Commissionate a Captain, Lieutenant and Cornet to the said Troop and when the Commanding Officers of the said Troop are ready and shall Exercise the said Troop and not before the Persons so Enrolled in the said Troop shall be and are Exempt from their Service in the foot Companies. And the Officers and private men of the said Troop shall afterwards be subject to Muster as many times as well with regard to private Musters as to General Musters of the County and under the same penalties as in and by this Act is before directed for the foot Muster.

XIV. And be it further Enacted by the Authority aforesaid, That every Trooper shall be provided with a good serviceable Horse not less than

fourteen Hands High with a good Bridle, Saddle, housing Holsters, Breast-plate and Crupper, a Case of good Pistols and good Broad Sword, Twelve Charges of Powder, Twelve Sizeable Bullets, a pair of Shoe Boots with suitable Spurs and a Carbine well fixed with a good Belt Swivel and Bucket.

XV. And be it further Enacted by the Authority aforesaid, That the Colonels of each and every Regiment shall once a Year cause a General Muster to be made of their respective Regiments at the Court house of their County which if any of them shall fail or neglect to do and shall fail to appear at such Muster (sickness or accident excepted) he or they so offending shall forfeit and pay the sum of Twenty pounds to be recovered by action of Debt, Bill, plaint or Information in any Court of Record within this province one-half thereof to such Person who shall sue for the same and the other half to be applied as other Fines in this Act directed.

XVI. And be it further Enacted by the Authority aforesaid, That it shall and may be lawful for the Field Officers and Captains of every County or the major part of them whereof the Colonel, Lieutenant-Colonel, or Major, shall be one and they are hereby directed and required to meet at the Court House of their respective Counties on the day next following their respective general musters which shall be in their Counties then and there to hold a Court Martial which said Court shall have full power to enquire into the Age and abilities of all persons enlisted and to exempt such as they shall judge incapable of service and of all Neglects and omissions as well by any Officers as delinquents and to hear and determine all appeals which shall be made to the Court from any Officer or Soldier who may think himself unjustly fined by his Captain and to Order and dispose of all fines in the first place for Buying drums, Colours and other necessities for the use of the Company from whence the same shall arise and afterwards with supplying the Militia with Arms and the said Court is hereby directed and required to keep a Register of all their proceedings and for that purpose to appoint a Clerk and allow him a reasonable Salary out of the Fines.

XVII. And be it further Enacted by the Authority aforesaid, That the Court Martial of every County shall have full power from time to time to call the Sheriff or any other person or persons whatsoever to account on Oath who shall pay to them the monies in the Hands of him or them belonging to their respective Regiments that have accrued or that may become due by virtue of this or any former Militia Act and if any Sheriff or other person shall refuse or neglect to appear account and pay as aforesaid he shall forfeit and pay the sum of Fifty Pounds to be recovered with Costs by the Colonel of the regiment to which such Money is or may become due by Action of Debt or Information in any Court having cognizance thereof and to be applied to the use of the Regiment and when any suit shall be brought by the Colonel and he shall happen to die or be superseded before such suit shall be determined the same shall and may be carried on by the succeeding Colonel in the name of his Predecessor who brought such suit and the death of the Colonel or his being displaced shall not be pleaded in abatement of such suit nor be deemed matter of Error any Law Usage or Custom to the contrary notwithstanding.

XVIII. And be it further Enacted by the Authority aforesaid, That every Colonel failing to appear at such Court and every Lieutenant-Colonel or Major failing to appear at the General Muster or such Court as aforesaid for every such Offence shall forfeit and pay the sum of five pounds proclamation Money and every Captain failing as aforesaid shall forfeit and pay three pounds and every Lieutenant or Ensign failing to appear at the General Muster Forty Shillings unless they shall make such excuse for their

Absence to the next succeeding Court as the said Court shall judge sufficient and every Captain or in his Absence the Clerk of the said Company shall return on Oath an exact list of the Persons who have been fined and whether for absence or want of Accoutrements and every Captain shall then and there pay into the Court all such fines as he shall have received under the penalty of fifty pounds to be levied by a Warrant from the Colonel which said Fine shall be applied as other Fines by this Act directed.

XIX. And be it further Enacted by the Authority aforesaid, That each and every Captain shall procure a Copy of this Act and lodge the same with the Clerk of his Company and be allowed for the same out of the Fines.

XX. And be it further Enacted by the Authority aforesaid, That no Officer or Soldier ordered and directed by this Act to appear at Muster as aforesaid shall be liable to be taken or arrested by any officer in any Civil Action or process whatsoever on the day such person is directed to appear or in any reasonable time either in going to continuing at or returning home from the place appointed to Muster but every such arrest is hereby declared to be ipso facto void and all officers are hereby required to take notice thereof any Law Usage or Custom to the Contrary notwithstanding.

XXI. And be it further Enacted by the authority aforesaid, That every person liable to appear or muster going to or returning from any Muster shall be suffered to pass over any Bridge and shall be put over any Ferry without delay free from any Charge whatsoever and if any Ferryman shall demand, delay or refuse to put such person or persons over he shall forfeit and pay for every such offence the Sum of Twenty Shillings to be recovered by a Warrant from a Justice of the Peace one-half to the Informer the other half to the use of the Parish where the offence was Committed.

XXII. And be it further Enacted by the Authority aforesaid, That when it shall be thought requisite or necessary to swear any person or persons upon any trial before any Captain about any Fines or Penalties in this Act directed it shall and may be lawful for the said Captain to administer any such Oath.

XXIII. And be it further Enacted by the Authority aforesaid, That an Act passed in the Year One Thousand seven hundred and seventy, entitled "An act for an Addition to and Amendment of an Act entitled, An Act for appointing a Militia;" and this act be and continue in force for and during the term of One Year from and after the passing hereof and from thence to the end of the next Session of Assembly and no longer.

CHAPTER III.

An Act to establish Courts of Oyer and Terminer and General Gaol Delivery and for vesting in the several Inferior Courts of Pleas and Quarter Sessions the power of appointing Jurymen for the said Courts of Oyer and Terminer and regulating the Proceedings therein and also for constituting the Judges thereof a Court for hearing and determining Appeals and Writs of Error.

Whereas it is necessary for the due Administration of Justice, that Courts of Oyer and Terminer, under proper regulations, should be held in the several districts of this Province.

I. Be it therefore Enacted by the Governor, Counsel and Assembly and by the Authority of the same, that the Governor or Commander in Chief for the time being, be hereby empowered and authorized to issue a Commission

State, one Half to the Informer, and the other to the Commissioners, to be by them applied as before directed.

XVI. And be it Enacted, by the Authority aforesaid, That the Collector of the Tax aforesaid shall be entitled to Five Per Cent. for his Trouble in receiving and paying the same, and that he shall account with the Commissioners annually, upon Oath, if required, for all Sums of Money he may receive in and by Virtue of this Act.

XVII. And be it Enacted, by the Authority aforesaid, That all Acts, Clause, or Clauses of Acts, relative to Pilotage or Navigation, heretofore in Force in this State, be, and they are hereby repealed.

XVIII. And be it Enacted, by the Authority aforesaid, That this Act, and every Clause therein contained, shall continue and remain in full Force and Virtue for and during the Continuance of the present War, and from thence until the End of the next Session of the General Assembly.

CHAPTER XIX.

An Act to Enable the Governor to send an Aid from the Militia to oppose the Enemies of the United States, if the same shall be requested by Congress.

I. Whereas opposing the Enemies of the United States, by vigorous and powerful Efforts, will greatly tend to bring the present War to a speedy and happy Conclusion, and this State is at all Times willing and desirous of assisting, to the utmost of its Power, in the common Defence;

II. Be it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That it shall and may be lawful for the Governor, or Commander in Chief for the Time being, upon the Request of Congress for that Purpose made, to detach from the Militia of this State an Aid, not exceeding Five Thousand Men in Manner following, that is to say, Every Regiment shall be required to furnish its Proportion of the said Aid, according to the Number it contains, and that the commanding Officer of every Regiment shall be, and he is hereby empowered, to offer a Bounty of Fifty Dollars to every Person who shall engage as a Voluntier in the said Service, and the Deficiency, if any, shall be supplied by Drafts, agreeable to the Militia Law, and every Person drafted for the said Service shall be intitled to a Bounty of Twenty Five Dollars; and every such commanding Officer shall return as soon as may be, to the Governor or Commander in Chief for the Time being, a Roll of Such Persons as shall be detached from his Regiment, distinguishing them into Voluntiers and drafted Men; and every Voluntier and drafted Militia Man shall be intitled to receive the Bounty to them respectively given by this Act, as soon as they shall enter into the Service, or be drafted; and the Governor, or Commander in Chief for the Time being, is hereby authorized to draw on the Treasury for such Sums of Money as may be necessary to defray the same.

III. And be it Enacted, by the Authority aforesaid, That the said Aid shall march to such Parts or Places within the United States as the Congress shall direct, and be and continue in Service during the next Campaign, not exceeding Twelve Months; and such Aid shall be under the same Rules and Discipline as the continental Troops, after they shall have joined the Army which they may be ordered to reinforce, and shall receive the same Pay allowed the Militia in this State. Provided always, That for any Offence, every Officer and Soldier of the said Reinforcement shall be tried by the Courts Martial composed of their own Officers, and none other.

IV. And be it also Enacted, by the Authority aforesaid, That the Governor may march to conduct and command the said Militia, if it shall be adjudged by him, with the Advice of the Council of State, consistent with the Safety of this State, and of Use to the Public Service.

V. And be it further Enacted, by the Authority aforesaid, That in case the Governor of this State for the Time being shall by Virtue of this Act march without the Limits of this State, he shall have the rank of a Major General of Militia from the passing of this Act, and shall draw Pay from the Day when by Virtue of this Act he shall pass the Limits of this State, during the Time he shall be on such Service; and he is hereby impowered to call as many Officers into Service as he shall think the Service absolutely requires, having Respect to the Regiments to which such Officers belong, and complying with the Rules prescribed by the Militia Law; and make every Provision for the March of such Troops, and Transportation of Stores, Baggage, Provision and Forage, as may tend to expedite the Progress of the Army, and consist with as much Economy as the Nature of the Operations will admit of.

VI. Provided, That no Person shall be subject to be drafted for compleating the Aid aforesaid, who has been already drafted, and in actual Service, in any Division, Battalion, Company or Detachment, for more than Two Months at any one Time since the Commencement of the present War; and all others shall, if a Draft be necessary, be subject to an equal Draught.

VII. And be it also Enacted, by the Authority aforesaid, That in Case the Governor shall not find it expedient to march with the said Aid, he shall appoint the Commanding Officer thereof a Major General, and such Major General shall have the Pay and other Appointment to such Rank belonging in the Continental Army.

CHAPTER XX.

An Act for Establishing the Salaries of the Justices of the Superior Courts, and of the Attorney General.

I. Whereas it is necessary, in order to obtain a due Administration of Justice, that the Justices of the Superior Courts, and the Attorney General, should be Men of Eminence in the Profession of the Law, which cannot otherwise be effected, than by providing for them suitable to the Dignity of their respective Stations;

II. Be it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That each of the said Justices shall be paid the Sum of One Hundred Pounds for each and every Superior Court he shall so attend, to be paid out of the Treasury by quarterly Payments.

III. Provided always, That if any of the said Justices should be prevented by Sickness, or any unavoidable Accident, from attending at any of the said Courts, and the same be made appear on Oath, such Justice shall be paid Fifty Pounds for each and every such Court, and no more.

IV. And be it Enacted, by the Authority aforesaid, That the Attorney General shall be paid the Sum of Fifty Pounds for each and every Superior Court he shall attend, together with the Fees by Law established.

V. Provided, That if it should so happen that the Attorney General should not attend at any Superior Court, that then it shall and may be lawful for

LAWS OF NORTH CAROLINA, 1777.

At a General Assembly, begun and held at New Bern, on the Eighth Day of April, in the Year of our Lord One Thousand Seven Hundred and Seventy-seven, and in the First Year of the Independence of the said State: Being the first Session of this Assembly. *Richard Caswell, Esq., Governor.*

CHAPTER I.

An Act to Establish a Militia in this State.

I. Whereas, a well regulated militia is absolutely necessary for the Defending and securing the Liberties of a free State,

II. Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, that the Militia of this State be divided into six Brigades, viz.: One in each of the Districts of Edenton, New Bern, Wilmington, Halifax, Salisbury and Hillsborough. And each Brigade to be commanded by a Brigadier General. And the Militia of every County shall consist of all the effective men from sixteen to fifty years of age inclusive, to be formed into one or more regiments, each under the command of a Colonel, Lieutenant Colonel and two Majors. Every Regiment shall be divided into companies, consisting of fifty Rank and File at least, two sergeants, two corporals, one Drummer and one Fifer; and each Company to be under the command of a Captain, Lieutenant and Ensign. That every Company shall be divided into four Divisions, who shall draw Lots, for the First, Second, Third and Fourth Turns, to go on service and shall be numbered according to such lots.

III. And be it further enacted that the foregoing arrangements shall immediately upon the publication hereof be made in every County in this State by the Field Officers and Captains in their respective Departments; and that every Captain immediately on such arrangement, and afterwards every six Months shall return a Muster Roll of his Company, divided and numbered as aforesaid, to the Commanding Officer of the Regiment, under pain of forfeiting Five Pounds for every Default; and the commanding officer of each Regiment shall make an exact return from such lists within twenty days after receiving the same, to the Brigadier General of the District under pain of forfeiting Twenty Five Pounds for every Default.

IV. And be it further enacted, that the commanding officer of every Regiment shall whenever thereto required by the Brigadier General of the District, order a General Muster at the most convenient place for his regiment: under pain of Forfeiting Twenty-Five Pounds for every Default; provided he does not call them together more than twice in one year. And every Captain shall muster and train his company, divided as before directed, once in every month and oftener if directed by the commanding officer, under pain of forfeiting Five Pounds for every default. And every soldier refusing or neglecting to attend the General Muster, shall forfeit the sum of ten shillings, to be recovered together with the foregoing forfeitures as hereinafter directed.

V. And be it further Enacted, that the Brigadier Generals respectively, shall

284. N. C.—*Assembly, New Bern; Recs. Clark, Vol. 24, 1905, Ch. I; Act, Apr. 8, 1777, pp. 1-5.*

return an exact Roll of all the officers and soldiers of their Brigades, distinguished into their proper Companies and divisions, to the Governor, once every year, and oftener if required; under penalty of One Hundred Pounds for every Default.

VI. And be it further enacted, that each Militia soldier shall be furnished with a good Gun, shot bag and powder horn, a Cutlass or Tomahawk, and every Soldier neglecting to appear at any muster, accoutered as above, shall forfeit for every such offence two shillings and six pence (unless he can make it appear that they were not to be procured) to be recovered as other fines. And where any person shall appear to the Field Officers not possessed of sufficient property to afford such arms and accouterments, the same shall be procured at the expence of the County, and given to such persons on muster Days, or when ordered into service, which Guns and Accouterments after such service, shall be returned to the Captain of the Company, and by him carefully preserved for future occasions. And whenever the Militia are called into service, they shall be allowed as follows, viz.: One Baggage Wagon or two Carts for every Company, and one Cart and two Horses for a Brigadier General, one Baggage Cart and two Horses for the Field Officers of each Regiment; Ammunition and Waggon at the Discretion of the Brigadier General; the same rations to them and officers as allowed to the Continental Army, to be supplied by Commissaries appointed by the Brigadier; one Bell tent to each Company, entrenching tools, six axes, and a sufficient number of camp kettles. And the pay of the men and officers as follows, viz.:

A Colonel per day.....	12—6
A Lieutenant Colonel.....	10
A Major	10
A Captain	7—6
A Lieutenant and Chirurgion.....	5
An Adjutant	7—6
An Ensign	4—6
A Sergeant	4
A Corporal, Drummer and Fifer.....	3
A Common Man	2—6
A Brigadier General	1—12

VII. And be it further Enacted, that the Commanding officer of every Regiment shall return an account of all expenses and Disbursements and pay appertaining to the said Regiment and shall produce as vouchers for such account, the amount rendered on oath of the Captains of the several Companies, and other persons expending or disbursing for the said regiment.

VIII. And be it further enacted, that there shall be ten light horsemen, and no more, from each Regiment, to be arranged in one or more companies, when they shall have joined the Brigade, at the Direction of the Brigadier General.

IX. And be it further Enacted, that no officer or soldier, in the Militia Service shall be tried for any offence against the Militia Law, or the Articles of War, except by a Court Martial to consist only of Militia officers.

X. And be it further Enacted that no Brigade, Regiment, Company or Division of Militia shall be under Command of any but Militia Officers, except when such Militia shall be ordered by the Civil Town to join the Continental Troops: In which case the Continental Officer of equal and the Militia officer of superior Denomination shall command.

XI. And be it further enacted, that such Divisions as shall at any time be

called into service shall be formed into Companies of not less than fifty men each with a proportioned number of officers, Sergeants, Corporals, Fifers and Drummers; and all the officers of each Regiment shall agree among themselves, concerning who shall command the men directed to march into actual service: But if they cannot agree, the Commanding Officer shall cause Lots to be drawn, and the officers on whom such Lot shall fall, shall command in their proper Rank and Department.

XII. And be it further enacted, that all persons within the ages of sixteen and fifty shall be liable to be drafted, and every person so drafted, obliged to serve or find an able bodied person in room. Provided, that the Council of State, and Publick Secretary, and Justice of the Peace, Ministers of some Church regularly settled, and having the Cure of Souls, and Continental post masters, shall not be obliged to attend general or private Musters.

XIII. And be it further enacted, that for all Defaults at Private Musters, the Captains of their respective Companies shall issue Citations against the Delinquents, returnable to the succeeding Muster; and in case of insufficient cause being shown for absence, shall issue his warrant to the sergeant for levying the above Fines; and the fines so collected shall be applied towards providing arms for such as have not sufficient property to procure such for themselves.

XIV. And be it further enacted, that there shall be a Court Martial held the Day after every General Muster, to be composed of one Field Officer and six Captains, or subalterns, at least, which said Court shall have full power to inquire into the Age, and abilities of all persons enlisted and to exempt such as they judge incapable of service and of all neglects and omissions as well by any officers as soldiers; and to hear and determine all appeals whatever; and to dispose of all Fines for the use of the County; and the said Court is hereby Directed and required to keep a Register of all their proceedings; and for that purpose to appoint a Clerk, and to allow him a reasonable salary out of the Fines.

XV. And be it further enacted, that where any soldier shall neglect or refuse to appear at any general muster, equipt as aforesaid, the Captain of the Company to which he belongs shall return him as a Delinquent to the General Court Martial; and they are directed and required hereby to send citations against such persons, signed by the President and returnable to the next General Court Martial; and on failure of sufficient excuse, they are hereby impowered to issue execution against the Estate of such Delinquents, for the Fines incurred by their neglect or refusal.

XVI. And be it further Enacted, that if any soldier shall during the time of any muster, or when in service, resist his commanding officer or refuse his lawful commands, such soldier shall be punished at the discretion of his officer, by being tied neck and heels not exceeding fifteen minutes. And if any officer or soldier shall refuse to carry such Commands into Execution, he or they so offending shall forfeit and pay the sum of five Pounds, to be levied by a warrant from any Field Officer in the Regiment, and applied as other fines mentioned in this act.

XVII. And be it further enacted, that no officer or soldier going to, continuing at or returning from any Muster in any reasonable time shall be liable to be arrested by any officer, on any civil action or process whatsoever: any Law, Usage or Custom to the contrary notwithstanding.

XVIII. And be it further enacted, that in all cases where it shall be requisite to administer an oath relative to any Military matters, any Commissioned officer is hereby impowered and required to administer the same.

XIX. And to prevent oppression: Be it further enacted, that no officer or soldier of the Militia or regulars in this State, shall press any Wagon, Cart

or Horse or other thing of any nature whatsoever, unless authorized thereto by warrants under the Hands and Seals of two Justices of the Peace (Not being militia officers then in actual service) of the County where such Press shall be necessary. And any officer or soldier before he shall press anything as aforesaid, shall demand the same peaceably from the owner or possessor thereof; and in case of refusal shall produce his warrant aforesaid, before he proceeds to press. And every officer or soldier who shall offend against this act shall forfeit and pay ten pounds for every such offence to the person injured, and be moreover liable to the action or actions of the party grieved; to be recovered before any jurisdiction having cognizance thereof. And every thing so pressed shall be valued by two indifferent persons upon oath, and a certificate of the valuation given by such valuers, to the owner or possessor, from whom the same shall be pressed; in order that if the same shall not be restored to the owner or possessor, he may be allowed such valuation by the publick.

XX. And be it further enacted by the authority aforesaid, that every absentee shall be allowed till the next succeeding muster to make excuse, before the Captain shall issue his warrant; unless against such Defaulters, as he may suspect are about removing themselves out of the County, before such succeeding Muster; in which case it shall and may be lawful for such captain to issue a summons to cause such suspected person to appear before him, and upon hearing him or the person refusing to obey the summons, the Captain shall then proceed as to him seems just. And every person that shall be fined in virtue of this act, and shall think himself injured by his officers, may appeal to the next Court Martial; first giving security in the sum of twenty shillings to appear, and abide by the judgment of the said Court. And if judgment shall be against him, that he will then and there pay the fine, with two shillings costs.

XXI. And be it further enacted by the authority aforesaid, that every person who shall neglect or refuse, on call or alarm given, to appear himself in person, or send an able bodied man in his stead, at such times and places as shall be appointed by his Captain or other officer, shall forfeit and pay ten pounds proclamation money. And it shall and may be lawful for any one Justice of the Peace of the County where such person so failing resides to cause him to be immediately apprehended and committed to Gaol, until he shall find security for his appearance at the next Court Martial. And if such Defaulter shall fail to appear and make satisfactory excuse to the next Court Martial, the President of the said Court Martial is hereby directed and empowered to issue his Warrant for levying the aforesaid Fine, directed to the Sheriff of the County where the offender resides. And such Sheriff who is hereby required and directed to execute the same, shall for every neglect or refusal, forfeit and pay the sum of Twenty Pounds Proclamation Money to be recovered by action of Debt in any Court of Record in this State. And every person who shall refuse to march against the enemy when commanded, or refuse or neglect to do his duty, or perform the service he is put upon by his Captain or other officer, or shall quit his post, desert his colours or mutiny, it shall and may be lawful for one Field Officer or more, two Captains, two Lieutenants, and two Ensigns, or the Majority of them openly to hold a Court Martial, first taking the following Oath; which is to be taken by all other Court Martials, Viz: You shall swear well and truly to try according to evidence, in the matter now before you, and on trial and conviction to punish the offender according to Martial Law and the nature of the offence may require (death excepted). And for want of such number of officers to compleat a Court Martial the offender shall be

put under guard until such time as there shall be a sufficient number for that purpose.

XXII. And be it further enacted by the Authority aforesaid, that when any Brigade shall be ordered into actual service, the following rules and regulations shall be observed, viz: One Waggon Master shall be appointed by the Field Officers of every Battalion, subject to be removed or rejected by the Brigadier General; who before he enters upon his duty shall take an oath that he shall faithfully execute the said office. And the Commissaries shall every morning make a return to the Waggon-Master of the provisions which the Waggon Master having examined and compared, shall return signed and certified, to the Commanding Officer. And the Waggon Master shall attend as his special duty to the arrangement of the Waggon, taking care that every morning no more begin the march, than one for every ton of provisions, except where there may be half a ton or upwards, over and above what will make a ton for every Waggon but one; in which case the one waggon shall be kept in service, until so much is consumed, as to render it below half a ton. And in all cases where the quantity over a ton for each Waggon, is less than half a ton, the overplus shall be distributed into the other waggons, as equally as may be. And every morning all the empty waggons shall be discharged; each waggon having first obtained a certificate from the Waggon Master, setting forth the number of days it had been in service, and the place where discharged and the distance to return. And for every twenty miles of such return, each waggon shall be allowed twenty shillings, or one Day's pay, and half the sum for such Carts as shall be employed in the service. And every Waggon-Master shall be allowed the pay and rations of a Major. That there be a paymaster to each Brigade who shall attend the same and be allowed Major's pay and rations.

XXIII. And be it further enacted by the authority aforesaid, That the divisions made for drafting the militia in the several counties in this State, according to a resolve of Congress passed at Halifax in May last, shall continue; and the persons who have in pursuance thereof been drafted and actually called forth in the service of this State, shall not be again drafted, nor called into actual service, till, according to the order of the said Divisions, it shall in rotation come to their time to be again drafted and called into the actual service of this State; anything in this act contained to the contrary notwithstanding.

XXIV. Whereas the penalties incurred by some of the Militia, who refused to march in the late expedition against the Cherokees and other enemies, for the necessary Defence of this State, have been imposed agreeable to Act of Assembly, and resolves of Congress; and whereas some of the said penalties incurred and imposed, as aforesaid, have not been collected.

XXV. Be it therefore enacted by the authority aforesaid, That the Colonel or Commanding officer of every Regiment of Militia in this State, shall be and is hereby impowered and authorized to issue his Precept under his hand and seal, directed to the Sheriff of the County, where the offender resides, to levy the said Fines, by Distress and sale of the offender's Goods and Chattels; and the said fines shall be applied in the same manner as other fines imposed by this act. And the sheriffs for their service shall out of the said fines receive the fees allowed by law for levying executions, and for every Neglect or Refusal, shall forfeit and pay the sum of Ten Pounds.

the same are hereby declared to be repealed, made null and void, to all Intents and Purposes, as if the same had never been made.

CHAPTER XIV.

An Act to enforce such Parts of the Statute and Common Laws as have been heretofore in Force and Use here, and the Acts of Assembly made and passed when this Territory was under the Government of the late Proprietors, and the Crown of Great Britain; and for reviving the several Acts therein mentioned.

I. Whereas Doubts may arise upon the Revolution in Government, whether any and what Laws continue in Force here: For Prevention of which,

II. Be it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That all such Statutes and Parts of Statutes, and such Parts of the Common Law, as were heretofore in Force and Use within this Territory, and all the Acts of the late General Assemblies thereof, or so much of the said Statutes, Common Law, and Acts of Assembly, as are not destructive of, or repugnant to; or inconsistent with, the Freedom and Independence of this State, and the Form of Government therein established, and which have not otherwise been provided for in Whole or in Part, not abrogated, repealed, expired, or become obsolete, are hereby declared to be in full Force within this State, and shall be observed accordingly.

III. And be it Enacted, by the Authority aforesaid, That one Act of the General Assembly made under the late Government, intituled, An Act for the more advantageous and easy Manner of obtaining Partitions of Lands in Coparcenary, Joint Tenancy, and Tenancy in Common; one other Act, intituled, An Act to prevent Card Playing, and other deceitful Gaming, passed at New Bern in the Month of December One Thousand Seven Hundred and Seventy, and since expired; and also one other Act, intituled, An Act for the Relief of Insolvent Debtors, with Respect to the Imprisonment of their Persons, made and passed at New Bern the Sixth Day of March, One Thousand Seven Hundred and Seventy Three, but since repealed by Proclamation; and the following Acts, passed last session of this present General Assembly, but which will expire with this Session, if not revived, to-wit, An Act to prevent hunting with a Gun by Fire Light in the Night; and An Act to prevent counterfeiting the Lottery Tickets of the United States, and other Purposes; and An Act to promote the recruiting Service, apprehending Deserters, and other Purposes therein mentioned; be, and are hereby revived, and declared to be in full Force, so far as the said Acts are not destructive of, repugnant to, or inconsistent with, the Freedom and Independence of this State, and the Form of Government therein established.

IV. And be it further Enacted, That this Act shall be, continue, and remain in full Force and Virtue, till the End of the next Session of Assembly, and no longer.

CHAPTER XV.

An Act to amend an Act, intituled, An Act to establish a Militia in this State.

I. Whereas a well regulated Militia is absolutely necessary for the defending and securing the Liberties of a free State.

II. Be it Enacted by the General Assembly of the State of North Carolina,

285. N. C.—*Assembly, New Bern; Recs. Clark, Vol. 24, 1905, Ch. XV; Act, Nov. 15, 1777, pp. 113–119.*

and it is hereby Enacted by the Authority of the same, That every Captain of Militia within this State, once in every Six Months, shall return a Muster Roll of his Company, divided and numbered as by the Act aforesaid is directed, to the commanding Officer of the Regiment, under Pain of forfeiting Five Pounds for every default; and the commanding Officer of each Regiment shall make an exact Return from such Lists within Twenty Days after receiving the same to the Brigadier General of the District, under Pain of forfeiting Twenty Five Pounds for every District.

III. And be it further Enacted, That the Commanding Officer of every Regiment shall twice in every Year, and oftener if thereto required by the Brigadier General of the District, order a general Return, at the most convenient Place for his Regiment, under Pain of forfeiting Twenty-Five Pounds for every Default; and every Captain shall muster and train his Company, divided as before directed, once in every Month, and oftener if directed by the commanding Officer, under pain of Forfeiting Five Pounds for every Default; and every soldier neglecting or refusing to attend the General Muster, shall forfeit the Sum of Twenty Shillings; and if a Private Muster Ten Shillings, to be recovered, together with the foregoing Forfeitures, as herein after directed.

IV. And be it further Enacted, That the Brigadier Generals respectively shall return an exact Roll of all the Officers and Soldiers of their Brigades, distinguished into their proper Companies and Divisions, to the Governor once in every Year, and oftener if required, under the Penalty of One Hundred Pounds for every Default.

V. And be it further Enacted, That each Militia Soldier shall be furnished with a good Gun, Shot Bag, and Powder Horn, a Cutlass or Tomahawk; and every Soldier neglecting to appear at any Muster accoutered as above shall forfeit, for every such Offence, Two Shillings and Six Pence, (unless he can make it appear they were not to be procured) to be recovered as other Fines: And where any Person shall appear to the Field Officers not possessed of sufficient Property to afford such Arms and Accoutrements, the same shall be procured at the Expence of the County and given to such Persons on muster Days, or when ordered into Service, which Guns and Accoutrements, after such Service, shall be returned to the Captain of the Company and by him carefully preserved for future Occasions: And whenever the Militia are called into Service they shall be allowed as follows, viz. Two Baggage Waggon or Four Carts for every Company, and one Waggon or Two Carts for a Brigadier-General. One Waggon or Two Carts for the Field Officers of each Regiment. Two Waggon or Four Carts for the subaltern Officers of each Regiment. Ammunition Waggon at the Discretion of the Brigadier-General. The same Rations to Men and Officers as allowed to the continental Army, to be supplied by Commissaries appointed by the Brigadier. One Bell Tent to each Company; Intrenching Tools, Six Axes, and a sufficient Number of Camp Kettles. And the Pay of the Men and Officers as follows, to-wit, A Colonel, per Day, Twelve Shillings and Six Pence. A Lieutenant Colonel, Ten Shillings. A Major, Ten Shillings. A Captain, Seven Shillings and Six Pence. A Lieutenant and Surgeon, Five Shillings. An Adjutant, Seven Shillings and Six Pence. An Ensign, Four Shillings and Six Pence. A Serjeant, Four Shillings. A Corporal, Drummer, and Fifer, Three Shillings. Each Rank and File Man, Two Shillings and Six Pence. A Brigadier General, One Pound Twelve Shillings.

VI. And be it Enacted, by the Authority aforesaid, That there shall be one Quarter Master to every Brigade, with Power to appoint Deputies, with the Consent of the Brigadier General; and every Colonel, or commanding

Officer of a Battalion, shall appoint a Quarter Master to attend the same, or any Detachment thereof, when ordered into actual Service, to continue only until such Battalion or Detachment shall join the Brigade of which it shall be a Part: And every Quarter Master shall keep an exact Account of the Disbursements within his Department, and produce Vouchers for every Expenditure before the same shall be allowed.

VII. And be it further Enacted, That there shall be Ten Light-Horse-Men, and no more, from each Regiment, to be arrayed in one or more Companies when they shall have joined the Brigade, at the Discretion of the Brigadier General.

VIII. And be it further Enacted, That no Officer or Soldier in the Militia Service shall be tried for any Offence against the Militia Law, or the Articles of War, except by a Court Martial, to consist only of Militia Officers.

IX. And be it further Enacted, That no Brigade, Regiment, Company, or Division of Militia, shall be under Command of any but Militia Officers, except when such Militia shall be ordered by the civil Power to join the continental Troops, in which Case the Continental Officer of equal, and the militia Officer of superior Denomination, shall command.

X. And be it further Enacted, That such Division as shall at any Time be called into Service, shall be formed into Companies of not less than Fifty Men each, with a proportionable Number of Officers, Serjeants, Corporals, Fifers and Drummers, and all the Officers of each Regiment shall agree among themselves concerning who shall command the Men directed to march into actual service; but if they cannot agree, the commanding Officer shall cause lots to be drawn, and the Officers on whom such Lot shall fall shall command in their proper Rank and Department.

XI. And be it further Enacted, That all Persons within the Ages of Sixteen and Fifty shall be liable to be drafted, and every Person so drafted obliged to serve, or find an able bodied Person in his Room; provided that the Council of State, Public Secretary, Justices of the Superior Courts of Law and Equity, Justices of the Peace, Attorney General, Ministers of some Church regularly called, and having the Cure of Souls, Treasurer of the Loan Office, Clerks of Courts, Entry Takers and Surveyors, and continental Postmasters and Postriders, shall not be obliged to attend general or private Musters.

XII. And be it further Enacted, That for all Defaults at private Musters, if the Delinquent shall fail to appear at the next succeeding Muster, and shew sufficient Cause for such Default, the Captain shall issue his Warrant to the Serjeant for levying the above Fines by Distress on the Delinquent's Goods and Chattels, and the fines so collected shall be applied towards providing Arms for such as have not sufficient Property to procure such for themselves; and when no Property can be found, the Delinquent shall and may be taken in Custody, and unless he can find Security for the Payment of the Fine incurred before the next Muster, shall and may be committed for the same for a Space not exceeding Two Days, and shall pay the Prison Fees.

XIII. Provided, That where any Person shall fail to appear at any private Muster, and the Captain of the Company may suspect such Person of having an Intention of removing himself out of the County before the next succeeding Muster, in such Case it shall and may be lawful for the Captain to issue a Citation against such Defaulter, requiring him by a certain Day, not exceeding Ten from the Date thereof, to appear and shew Cause, if any he can, why the Fine should not be levied; and if he shall fail to appear, or appearing, to make sufficient Excuse, he shall be subject to the same

Proceedings as if he had failed to make Excuse at the succeeding Muster: And every Person who shall think himself aggrieved, may complain to the next Court Martial, and if the said Court shall think he was unjustly fined, they shall order the Money to be refunded, if paid, and if any Security has been given, that the same be released.

XIV. And be it further Enacted, That there shall be a Court Martial held the Day after every General Muster, to be composed of one Field Officer, and Six Captains or Subalterns at least, which said Court shall have full Power to inquire into the Age and Abilities of all Persons inlisted, and to exempt such as they judge incapable of Service, and of all Neglects and Omissions, as well by any Officers or Soldiers, and to hear and determine all Appeals whatever, and to dispose of all Fines for the Use of the County; and the said Court is hereby directed and required to keep a Register of all their Proceedings, and for that Purpose to appoint a Clerk, and allow him a reasonable Salary out of the Fines.

XV. And be it further Enacted, That if any Soldier shall during the Time of any Muster, or when in Service, resist his commanding Officer, or refuse his lawful Commands, such Soldier shall be punished at the Discretion of his Officer, by being tied Neck and Heels not exceeding Fifteen Minutes; and if any Officer or Soldier shall refuse to carry such Commands into Execution, every one so offending shall forfeit and pay the Sum of Five Pounds, to be levied by a Warrant from any Field Officer in the Regiment, on the Goods and Chattels of the Delinquent, and applied as other Fines mentioned in this Act; and if no Goods or Chattels shall be found, it shall and may be lawful to seize and commit such Delinquent for a Space not exceeding four Days, and shall pay the Prison Fees.

XVI. And be it further Enacted, That no Officer or Soldier going to, continuing at, or returning from any Muster, in any reasonable Time, shall be liable to be arrested by any Officer in any civil Action or Process whatever, any Law, Usage or Custom, to the contrary notwithstanding.

XVII. And be it further Enacted, That in all Cases where it shall be requisite to administer an Oath relative to any military Matters, any commissioned Officer is hereby required to administer the same.

XVIII. Be it further Enacted, That no Officer or Soldier of the Militia or Regulars in the State shall press any Waggon, Cart or Horse, Arms or other Things, of any Nature whatsoever, unless authorized thereto by Warrants under the Hands and Seals of two Justices of the Peace (not being Militia officers then in actual service) of the County where such Press shall be necessary; and any Officer or Soldier before he shall press any Thing as aforesaid, shall demand the same peaceably from the Owner or Possessor thereof, and in Case of Refusal, shall produce his Warrant aforesaid before he proceeds to press, and if the Owner or Possessor shall still refuse the Thing demanded, it shall be lawful to press the same: and every Officer or Soldier who shall offend against this Act, shall forfeit and pay Ten Pounds for every such Offence to the Person injured, and be moreover liable to the Action or Actions of the Party grieved, to be recovered before any Jurisdiction having Cognizance thereof; and every thing so pressed or obtained shall be valued by two indifferent Persons, on Oath, and a Certificate of the Valuation given by such Valuers to the Owner or Possessor from whom the same shall be pressed or obtained, in order that if the same shall not be restored to the Owner or Possessor, he may be allowed such Valuation by the Public.

XIX. And be it further Enacted, by the Authority aforesaid, That every Person who shall neglect or refuse, on Call or Alarm given, to appear himself in Person, or send an able bodied Man in his Stead, at such Times and

Places as shall be appointed by his Captain or other Officer, or who shall refuse to march against the Enemy when commanded, or refuse or neglect to do his Duty, or perform the Service he is put upon by his Captain or other Officer, or shall quit his Post, desert his Colours; or mutiny, it shall and may be lawful for the commanding Officer of the Brigade, Regiment or Company, to whom such Defaulter shall belong, to send a Guard to take him into Custody, and also for one Field Officer or more, two Captains, two Lieutenants, and two Ensigns, or the Majority of them, openly to hold a Court Martial, first taking the following Oath, which is to be taken by all other Court Martials, viz.

You shall swear well and truly to try, according to Evidence, in the Matter now before you.

And on Trial and Conviction to punish the Offender according to Martial Law, as the Nature of the Offence may require (Death excepted.) And for want of such Number of Officers to compleat a Court Martial, the Offender shall be kept under Guard until such Time as there shall be a sufficient Number for that Purpose.

XX. Provided, That where any Person shall produce a proper authenticated Certificate from the yearly or quarterly Meeting of the Society of People called Quakers, or the religious governing Authorities of the People called Moravians, Dunkards, and Menonists, every such Person shall be subject to a Fine of Twenty Five Pounds, to be levied of his Goods and Chattels, Lands and Tenements, or of the Goods and Chattels, Lands and Tenements, or any such Society, which may belong to them, in Lieu of their personal Service on any Alarm or Expedition, such Fine to be paid into the Public Treasury, and applied to defray the Expences of the War.

XXI. And be it further Enacted, by the Authority aforesaid, That when any Brigade shall be ordered into actual Service, the following Rules and Regulations shall be observed, viz. One Waggon Master shall be appointed by the Field Officers of every Battalion, subject to be removed or rejected by the Brigadier General, who before he enters upon his Duty, shall take an Oath, that he shall faithfully execute the said Office; and the Commissaries shall every Morning make a Return to the Waggon Master of the Provisions, which the Waggon Master having examined and compared, shall return signed and certified to the commanding Officer; and the Waggon Master shall attend, as his special Duty, to the Arrangement of the Waggon, taking Care that every Morning no more begin to march than one for every Ton of Provisions, except where there may be Half a Ton or upwards over and above what will make a Ton for every Waggon but one, in which Case the one Waggon shall be kept in Service until so much is consumed as to render it below Half a Ton; and in all Cases where the Quantity over a Ton for each Waggon is less than Half a Ton, the Overplus shall be distributed into the other Waggon as equally as may be; and every Morning all the empty Waggon shall be discharged, each Waggon having first obtained a Certificate from the Waggon Master, setting forth the Number of Days it had been in Service, and the Place where discharged, and the Distance to return; and for every Twenty Miles of such Return, each Waggon shall be allowed Twenty Shillings, or one Day's Pay, and Half the Sum shall be allowed for such Carts as shall be employed in the Service; and every Waggon Master shall be allowed the Pay and Rations of a Major: Also that there be a Paymaster to be appointed to each Brigade, who shall attend the same, and be allowed Major's Pay and Rations; and he shall produce as Vouchers, Receipts from every Officer and Soldier who shall appear on the Muster Rolls of the Brigade to which he belongs, for such Sums as he shall pay away.

XXII. And be it further Enacted, by the Authority aforesaid, That the Divisions made for drafting the Militia in the several Counties in this State, according to a resolve of Congress, passed at Halifax in May, One Thousand Seven Hundred and Seventy Six, shall continue, and the Persons who have in Pursuance thereof been drafted, and actually called forth into the Service of this State, shall not be again drafted, nor called into actual Service, till according to the Order of the said Divisions, it shall in Rotation come to their Turn to be again drafted, and called into the actual Service of this State, any Thing in this Act contained to the contrary notwithstanding.

XXIII. Whereas the Penalties incurred by some of the Militia, who refused to march on the late Expedition against the Cherokee Indians, and other Enemies, for the necessary Defence of this State, have been imposed agreeable to Act of Assembly, and Resolves of Congress; and whereas some of the said Penalties incurred and imposed as aforesaid have not been collected, Be it therefore Enacted, by the Authority aforesaid, That the Colonel or Commanding Officer of every Regiment of Militia in this State shall, and he is hereby empowered and authorized to issue his Precept under his Hand and Seal, directed to the Sheriff of the County where the Offender resides, to levy the said Fines by Distress and Sale of the Offenders Goods and Chattels, and the said Fines shall be applied in the same Manner as other Fines imposed by this Act; and the Sheriffs for this Service, shall out of the said Fines receive the Fees allowed by Law for levying Executions, and for every Neglect or Refusal shall forfeit and pay the Sum of Ten Pounds.

XXIV. And be it Enacted, by the Authority aforesaid, That if any Militia Officer shall fail or neglect to call his respective Regiment, Company or Corps, together, or to exercise, discipline and train the same when assembled, in Manner as by this Act is directed, such Officer so failing or neglecting as aforesaid, shall forfeit and pay as follows, to-wit, A Colonel Commandant, the Sum of Twenty Five Pounds, a Lieutenant Colonel, the Sum of Twenty Pounds, a Major, the Sum of Twenty Pounds, a Captain, the Sum of Ten Pounds, a Lieutenant, the Sum of Five Pounds, and an Ensign, the Sum of Five Pounds; which several Penalties and Forfeitures may be sued for and recovered by Action of Debt, Bill or Complaint, before any Jurisdiction having Cognizance thereof, with Costs; one Moiety whereof shall be paid to the Brigadier General of the District, to be applied towards purchasing Arms, &c., for the Use of the Militia of the County where the Forfeiture shall be, and the other Half to the Person who shall sue for the same.

XXV. And be it further Enacted, by the Authority aforesaid, That every Militia Officer, before he shall enter upon the Execution of his Office, shall take the Oath appointed for the Qualification of Public Officers.

XXVI. And be it also Enacted, by the Authority aforesaid, That where any Invasion or Insurrection shall happen within this State, the nearest Militia Officer shall give immediate Notice thereof to his next superior Officer, who shall communicate the same to the next Superior, and so on to the Brigadier General, who shall convey the same to the Governor or Commander in Chief, and in the mean Time every such Officer shall use his utmost Endeavours to collect a Force sufficient to repel the Enemy, or suppress the Insurrection; and every Officer failing herein, shall be subject to such Punishment as shall be adjudged by a Court Martial.

XXVII. And be it Enacted, by the Authority aforesaid, That every Serjeant, for levying any Fine for not attending at general or private Musters, and for not appearing properly equipped, shall have and receive the following Fees, viz: For Fines for non-Attendance Four Shillings, for Fines for not being equipped One Shilling and Four Pence, to be paid out of the said

Fines. And when any Apprentice or Servant, or any Minor, shall absent himself from Militia Duties, he shall be subject to the Penalties by this Act directed for Offences of the same Nature; and if by this Act such Offences are made subject to a Fine or Fines, such Fine or Fines shall be levied by Distress upon the Effects of the Master of such Servant or Apprentice, or upon the Effects of the Parent of such Minor, or of his Guardian, in Case he shall be an Orphan.

XXVIII. And be it also Enacted, by the Authority aforesaid, That all and every Section of the Act before mentioned, which shall come within the Purview of this Act, shall be, and is hereby repealed.

CHAPTER XVI.

An Act to empower the Court of Admiralty of this State to have Jurisdiction in all Cases of Capture of the Ships and other Vessels of the Inhabitants and Subjects of Great Britain, to establish the Trial by Jury in the said Court in Cases of Capture.

I. Whereas the Continental Congress, by several Resolves, have declared that all Ships and Vessels, as well Ships of War and Transports as Merchant Ships and Vessels, their Tackle, Apparel and Furniture, and all Goods, Wares and Merchandize, belonging to any Inhabitant or Inhabitants of Great Britain, or to any Subject or Subjects of the King of Great Britain (except the Inhabitants of Bermuda and Providence, or Bahama Islands) taken on the High Seas, or between high and low Water Mark, by any armed Vessel, fitted out by any private Person or Persons to whom Commissions shall be granted, or by any of the Vessels of War of these United States, or by any Vessel of War fitted out by, and at the Expence of any of the United States, or which shall happen to be taken near the Shores of any of these States by the People from the Country, or Detachments from the Army, shall be deemed and adjudged lawful Prize; and whereas the said Congress have recommended to the several Assemblies or Legislatures in the said States as soon as possible to erect Courts of Justice, or to give Jurisdiction to those already established in the said States, for determining concerning the Captures to be made as aforesaid, and also recommended that all Trials in such Case be had by a jury, under such Qualifications as to the respective Legislatures shall be expedient.

II. Be it therefore Enacted, by the General Assembly of this State, and by the Authority of the same, That the Court of Admiralty of this State shall have jurisdiction, and may proceed to the Trial and Condemnation of all such Ships and Vessels, their Tackle, Apparel and Furniture, and all Goods, Wares and Merchandize, on Board thereof, as are herein before mentioned; and the Judge of the said Court for the Time being is hereby authorized and required, on Petition to him for that Purpose, to appoint a Court to be forthwith held, that only one Monition shall issue, returnable on the Fourth Day from the Time of Instituting the Suit, and on the return of the said Monition, that the Judge shall order a Jury to be summoned, returnable within Four Days thereafter, previous to all Claims to any Ship or Vessel, Goods, Wares or Merchandize, shall be duly entered and made in the usual Form, and attested on Oath on the Return of the said Monition, and not after, and the Claimant or Claimants shall, at the Time of exhibiting the same, give sufficient Security, to be approved of by the Judge of the said Court, to pay double the Costs necessarily incurred by exhibiting his or their Claim, to the Captor or Captors of such Ships, Vessel, Goods, Wares or Mer-

LAWS OF NORTH CAROLINA, 1778.

At a General Assembly begun and held at New Bern, on the Fourteenth day of April, in the Year of Our Lord One Thousand Seven Hundred and Seventy Eight, and from thence continued by Adjournments and Prorogations to the Nineteenth day of January, at Halifax, in the Year of Our Lord One Thousand Seven Hundred and Seventy-nine. Being the third Session of this Assembly.

CHAPTER I.

An Act to Regulate and Establish a Militia in this State.

I. Whereas a well regulated Militia is absolutely necessary for the Defending and Securing the Liberties of a Free State.

II. Be it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same: That the Militia of this State be divided into Six Brigades as it heretofore stood by an Act intituled An Act to Establish a militia in this State, viz, one in each of the Districts of Edenton, New Bern, Wilmington, Halifax, Salisbury, and Hillsborough, and each Brigade to be commanded by a Brigadier General. And the Militia of every County shall consist of all the effective men from Sixteen to fifty years of Age inclusive, except Quakers, Menonists, Dunkards, and Moravians to be formed into one or more Regiments, each under the Command of a Colonel, Lieutenant Colonel, and two Majors; every Regiment shall be divided into Companies, consisting of fifty Rank and File at least, two Sergeants, two Corporals, one Drummer, one Fifer; and each Company to be under the command of a Captain, Lieutenant, and Ensign, That every Company shall stand divided into four Divisions, and shall go on service according to the first, second, third and fourth numbers as they have heretofore drawn, under an Act intituled an Act to Establish a Militia in this State, provided nevertheless, That where any Militia man shall remove himself out of one Company into another, he shall produce a Certificate from the Captain of the Company from which he came, setting forth the Division to which he belonged, and the Duty he has performed in that Division and the Captain of the Company to which he came; shall cause him to be enrolled in the Division he stood in before his removal; And if any person so removing shall fail to produce such Certificate when thereto required by the Captain of the Company to which by his removal he shall or may belong such Captain shall cause the person so failing to be enrolled in the Division then liable to be called out and shall serve accordingly.

III. And be it further Enacted by the Authority aforesaid, That in every County where the Militia have not been divided and numbered as aforesaid, that the Commanding Officer of such County shall immediately upon the publication hereof cause such Militia to be divided and numbered as aforesaid, under the penalty of One Hundred Pounds to be recovered by action of Debt, by any person suing for the same in any Court of Record having cognizance thereof.

IV. And be it further Enacted by the Authority aforesaid, that every Captain shall on or before the twentieth day of April next and once in every six months afterwards return a Muster Roll of his Company divided and numbered as aforesaid to the Commanding Officer of the Regiment, under pain of forfeiting fifty pounds for every default; And the Commanding Officer of each Regiment shall make an exact return from such Lists within twenty days after receiving the same to the Brigadier General of the District under pain of forfeiting two Hundred and fifty pounds for every default.

V. And be it further Enacted by the Authority aforesaid, That the Commanding Officer of every Regiment shall once in every year, and oftener if thereto required by the Brigadier General of the District, order a general Muster at the Court House of their County or such place where the Court is held or such other places as is or may be appointed by law, under pain of forfeiting twenty-five pounds for every Default; and every Captain shall Muster and Train his Company divided as before directed once in every two Months and oftener if directed by the Commanding Officer under pain of Forfeiting Five Pounds for every default, and every soldier neglecting or refusing to attend the General Muster shall forfeit the sum of Forty Shillings, and if a private muster twenty shillings, to be recovered as herein-after directed.

VI. And be it further Enacted by the Authority aforesaid, that the Brigadier Generals respectively shall return an exact Roll of all the Officers and Soldiers of their Brigades distinguished into their proper Companies and divisions, to the Governor once in every year and oftener if required, under the penalty of five hundred pounds for every default.

VII. And be it further Enacted by the Authority aforesaid, That each Militia Soldier shall be furnished with a Good Gun, Shot bag a Cartouch Box or powder Horn, a Cutlass or Tomahawk and every Soldier neglecting to appear at any Muster accoutred as above shall forfeit for every such offence ten shillings if at a General Muster and five shillings if at a private Muster (unless he can make it appear they were not to be procured) to be recovered as other Fines, and when any person shall appear to the Field Officers not possessed of sufficient property to afford such arms and accoutrements, the same shall be procured at the cost of the County and given to such persons on Muster Days or when ordered into service, which Guns and Acoutrements after such Service shall be returned to the Captain of the Company and by him carefully preserved for future Occasions: and whenever the Militia are called into Service they shall be allowed as follows, one Baggage Waggon or two Carts for the field Officers of each Regiment, two Waggons or four Carts for the Captains and Subaltern Officers of each Regiment and two Waggons or four Carts to each Company if necessary; each Waggon with four Horses to be allowed ten Dollars per Day, each Cart with two Horses to be allowed five Dollars per Day and to be found forage and shoes for their Horses, Ammunition Waggons at the discretion of the Brigadier General. The same rations to men and officers as allowed to the Continental Army, to be supplied by Commissaries appointed by the Brigadier. One Bell Tent to each Company, Entrenching Tools, Six Axes and a sufficient number of Camp Kettles to be furnished by the Commanding Officer of each Regiment and the pay of the men and Officers as follows, (to-wit): a Colonel per Day forty shillings, Lieutenant Colonel thirty-six Shillings, a major thirty-six Shillings, a Captain twenty-eight Shillings, Lieutenant twenty four Shillings, a surgeon thirty six Shillings, an adjutant twenty-four Shillings, an Ensign twenty shillings, a Serjeant twelve shil-

lings, a Corporal, Drummer and Fifer ten shillings, each rank and file man eight shillings and that the non-Commissioned Officers and privates shall have and receive a Bounty of twenty Dollars for every month they shall be according to the Governor's orders on actual Duty, a Brigadier General five pounds and each Brigadier shall be allowed one Baggage Waggon.

VIII. And be it further Enacted by the Authority aforesaid that there shall be one Quarter Master to every Brigade, who shall be appointed by the Brigadier General with power to appoint Deputies, and every Colonel or Commanding Officer of a Battalion shall appoint a Quarter Master to attend the same, or any Detachment thereof when ordered into actual Service to continue only until such Battalion or Detachment shall join the Brigade of which it shall be a part—and every Quarter Master shall keep an exact account of the Disbursements within his Department and shall be compelled to produce Vouchers on Oath for every expenditure before the same shall be allowed and the Quarter Master for each Brigade shall not appoint more than one Deputy for each Regiment and each Brigade Quarter Master shall be allowed Captains pay and Rations, and each Deputy Lieutenants pay and Rations.

IX. And be it further enacted by the Authority aforesaid, that there shall be twenty five Light Horse Men and no more from each Regiment, to be arrayed in one or more Companies when they shall have joined the Brigade at the discretion of the Brigadier General, and that each and every Light Horse man shall find and provide his own Horse and accoutrements, and shall have the same bounty as a foot Soldier and sixteen Shillings per day together with Forage and Shoes for his Horse; and a Chaplain may be appointed to each Brigade by the Brigadier General to be approved of by the Field Officers of the Brigade which Chaplain shall have the same pay and Rations as a Colonel and be allowed forage for his Horse.

X. And be it further Enacted that no Officer or Soldier in the Militia Service shall be tried for any offence against the Militia Law or the Articles of War; except by a Court Martial composed of Militia Officers.

XI. And be it further Enacted, that no Brigade, Regiment or Division of Militia shall be under Command of any but Militia Officers, except when such Militia shall be ordered by the civil power to join the Continental Troops, in which Case the Continental Officer of equal and the Militia Officer of Superior Denomination shall Command.

XII. And be it further Enacted that such Division as shall at any time be called into Service, shall be formed into Companies of not less than fifty Men each, with a proportionable number of Officers, Sergeants, Corporals, Fifers and Drummers, and all the Officers of each Regiment shall agree among themselves concerning who shall command the men directed to March into Actual Service; but if they cannot agree the Commanding officer shall cause Lotts to be drawn and the Officers on whom such lot shall fall shall command in their proper rank and department, and such Draft of Officers shall be taken and made previous to the draft of the Soldiers and if any Officer shall resign prior to the Draught of the Militia Soldiers aforesaid, such Officer shall be placed in the Division then liable to a Draft and if any Officer on whom the lot of Commanding aforesaid may fall should resign his command before the Expiration of the Service such Officer shall forfeit and pay the sum of five Hundred pounds to be applied and recovered as other fines are herein Directed, provided, that nothing herein contained shall extend or be construed to extend to bar any Officer or Officers from

resigning his or their Office before any alarm or orders for raising men without incurring any penalty by this Act inflicted.

XIII. And be it further Enacted that all persons within the ages of Sixteen and fifty shall be liable to be drafted and every person so drafted obliged to serve or find an able bodied person in his room, provided that the Governor, Speaker of both Houses of the Assembly, Justices of the Superior Court of Law, Attorney General, Continental Delegates, Public Secretary, Quakers, Minonists, Dunkards, Moravians and such persons as shall heretofore actually inlisted good and able bodied men as regular Soldiers or caused such to be inlisted to serve in the Continental Army agreeable to an Act passed in May One thousand Seven Hundred and Seventy-seven for encouraging the Recruiting Service, which said Enlistments they shall prove by their own Oath and the Testimony of an indifferent person to be obtained without Fraud or Collusion in due time and without the procurement or assistance of any Continental Officer or Soldier, shall be exempted from a Draft and that no Justice of the Peace, member of the Council of State, ministers of every Denomination regularly called and having the Cure of Souls, Treasurer of the Town Office, Physicians or Surgeons, Continental post masters and post Riders shall be obliged to attend General or Private Musters but shall nevertheless be subject to a Draft.

XIV. And be it further Enacted that for all Defaults at private Musters if the Delinquent shall fail to appear at the next Succeeding Muster & show sufficient cause for such Default the Captain shall issue his Warrant to the Serjeant for levying the above fines by Distress on the Delinquent's Goods and Chattels, and the fines so collected shall be applied toward providing Arms for such as have not sufficient property to procure such for themselves.

XV. Provided that when any person shall fail to appear at any private Muster and the Captain of the Company may suspect such person of having an Intention of removing himself out of the County before the next Succeeding Muster, in such case it shall and may be lawful for the Captain to issue a Citation against such Defaulter requiring him by a certain Day not exceeding ten from the Date thereof to appear and show cause if any he can why the fine should not be levied, and if he shall fail to appear or appearing to make sufficient Excuse he shall be subject to the same proceedings as if he had failed to make excuse at the Succeeding Muster. And every person who shall think himself aggrieved may complain to the next Court Martial, and if the said Court shall think he was unjustly Fined they shall order the money to be refunded if paid, and if any Security has been given that the same be released; And if any person shall withdraw himself or abscond from the Company to which he belongs after being lawfully drafted or shall desert his Colours when on actual Service such person shall be held and deemed a Continental Soldier during the War.

XVI. And be it further Enacted, That there shall be a Court Martial held the day after every General Muster, to be composed of one Field Officer and Six Captains or Subalterns at least, which said Court shall have full power to inquire into the Age and Abilities of all persons inlisted and to exempt such as they Judge incapable of Service and of all neglects and omissions as well by any Officer as Soldier, and to hear and determine all appeals whatever and to dispose of all fines for the use of the County, and the said Court is hereby directed and required to keep a Register of all their proceedings, and for that purpose to appoint a Clerk and allow him a reasonable Salary out of the fines.

XVII. And be it further Enacted that if any Soldier shall during the time of any Muster resist his Commanding Officer or refuse his lawful Commands, such Soldier shall and may be taken into Custody by order of the Commanding Officer and shall pay such a fine as his said Officer shall assess, not exceeding the sum of ten pounds if at a private Muster, or twenty pounds if at a General Muster; Provided, nevertheless, that such offending Soldier shall have a right of appealing to the succeeding Court Martial to be held for his County, he first giving Bond and Security in double the sum assessed to the Commanding Officer that he shall well and truly prosecute the said Appeal with effect, and if the said offending Soldier shall fail in his appeal it shall and may be lawful for the said Court Martial to confirm such fine with costs at their discretion.

XVIII. And be it further Enacted that if any Officer or Soldier shall neglect or refuse to appear when drafted or otherwise called into actual Service or fail to deliver an able bodied man in his room to the Commanding Officer of the County to which such drafted person may belong (and the said Officer is hereby required to receive such substitute and to give from under his Hand a discharge to such drafted person so providing such substitute) such delinquent so failing or refusing to appear and march agreeable to Command of his Officer, after having received five days previous notice of such draft shall be held and deemed a Continental Soldier for one year and the service of such substitute shall be considered as the service of the drafted person himself and such drafted person shall be entitled to the same legal exemption in future drafts as if he had rendered personal Service; Provided always, that no person shall be received as a Substitute who shall be in the same division with the Drafted person offering such substitute.

XIX. And be it further Enacted by the Authority of the same, that if any Officer or Soldier when in actual Service shall wilfully disobey the lawful Commands of his Superior or Commanding Officer it shall and may be lawful for such his commanding Officer to cause him to be arrested and held in safe Custody until a Court Martial can be held over such offender (the said Court not to consist of less than one Field Officer, three Captains, three Lieutenants and three Ensigns, or a Majority of them from the Regiment to which such Officer or Soldier shall belong and such Offender shall suffer such Punishment as such Court Martial shall direct; Provided always, that if this offender shall be an Officer he shall not be subject to any Corporal punishment, and whether he be Officer or Soldier he shall not be subject to the loss of Life, Limb or Member.

XV. And be it further enacted that No Officer or Soldier going to, continuing at, or returning from any Muster, in any reasonable time, shall be liable to be arrested by any Officer in any Civil Action or process whatever, any Law, Usage, or Custom to the contrary notwithstanding.

XVI. And be it further Enacted that in all Cases where it shall be requisite to administer an Oath relative to any Military Matters, any Field Officer or Captain is hereby required to administer the same.

XVII. And be it further Enacted, That no Officer or Soldier of the Militia or Regulars in this State shall press any Waggon, Cart or Horse, Arms or other Things, of any nature whatsoever, unless Authorized thereto by Warrants under the Hands and Seals of Two Justices of the Peace (not being Militia Officers then in actual Service) of the County where such press shall be necessary, and any Officer or Soldier before he shall press anything as aforesaid shall demand the same peaceably from the owner or possessor thereof and in Case of refusal shall produce his Warrant aforesaid before he

proceeds to impress, and if the owner or possessor shall still refuse the Thing demanded, it shall be lawful to impress the same and every Officer or Soldier who shall offend against this Act shall forfeit and pay One Hundred Pounds for every such offence to the person injured, and be moreover liable to the Action or Actions of the party grieved, to be recovered before any Jurisdiction having Cognizance thereof, and everything so pressed or obtained shall be valued by two freeholders on Oath and a Certificate of the valuation given by such Valuers to the Owner or possessor from whom the same shall be pressed or obtained, in order that if the same shall not be restored to the owner or possessor he may be allowed such Valuation by the Publick. And in case such Article or Articles so impressed shall be injured while in the publick Service the damage shall be valued as other Articles by this Law are directed to be valued and he shall receive the amount of such Valuation.

XVIII. And be it further Enacted by the Authority aforesaid, That when any Brigade shall be ordered into actual service, the following Rules and Regulations shall be observed, one Waggon Master shall be appointed to every twelve Waggons and that the Commanding Officer shall continue or discharge the same at his discretion, who before he enters upon his duty, shall take an Oath that he shall faithfully execute the said Office and the Commissaries shall every Morning make a return to the Waggon Master of the provisions which the Waggon Master having examined and compared, shall return signed and Certified to the Commanding Officer; And the Waggon Master shall attend, as his special duty to the Arrangement of the Wagons, taking care that every morning no more begin to march than one for every Ton of provisions except where there may be half a Ton or upwards over and above what will make a Ton for every Waggon but one, in which case the one Waggon shall be kept in Service until so much is consumed as to render it below Half a Ton; and in all Cases where the quantity over a Ton for each Waggon is less than half a Ton, the overplus shall be distributed into the other Waggons as equally as may be, and every Morning all the Empty Waggons shall be discharged except otherwise ordered by the Commanding Officer as aforesaid, each Waggon having first obtained a Certificate from the Waggon Master setting forth the number of days it had been in Service, and the place where discharged, and the distance to return, and for every twenty miles of such return each Waggon shall be allowed one day's pay; and half the sum shall be allowed such Carts as shall be employed in the Service; and every Waggon Master shall be allowed the pay and Rations of a Captain; also that there be a paymaster to be appointed to each Brigade, who shall attend the same and be allowed Major's pay and Rations, and he shall produce as Vouchers, Receipts from every Officer and Soldier who shall appear on the Muster Roll of the Brigade to which he belongs for such Sums as he shall pay away.

XIX. And be it further Enacted by the Authority aforesaid, That the Provisions made for Drafting the Militia in the Several Counties in this State, according to a Resolve of Congress, passed at Halifax in May, One Thousand Seven Hundred and Seventy Six, shall continue, and the persons who have in pursuance thereof been drafted or voluntarily inlisted and actually called forth into the Service of this State shall not be again drafted or called into actual service of this State till, according to the order of the said provision it shall in rotation come to their turn to be again drafted and called into actual Service of this State; anything in this Act contained to the Contrary notwithstanding.

XX. And be it Enacted by the Authority aforesaid, that if any Militia Officer shall fail or neglect to call his respective Regiment, Company or Corps together, or to exercise, discipline and train the same when assembled, in manner as by this Act is directed, such Officer so failing or neglecting as aforesaid, shall forfeit and pay as follows, to-wit: A Colonel Commandant the sum of One Hundred Pounds, A Lieutenant Colonel the sum of Seventy-five pounds, A Major the sum of Seventy-five, A Captain the Sum of Fifty pounds, Lieutenant the sum of Thirty pounds, and an Ensign the Sum of twenty which several Penalties and Forfeitures may be sued for and recovered by Action of Debt, Bill or Plaint, before any Jurisdiction having Cognizance thereof with Costs, one Moiety whereof shall be paid to the Brigadier General of the District, to be applied towards purchasing Arms, &c., for the use of the County where the Forfeiture shall be, and the other Half to the person who shall sue for the same.

XXI. And be it further Enacted by the Authority aforesaid, that every Militia Officer, before he shall enter upon the execution of his Office, shall take the Oath appointed for the Qualification of Publick Officers, and also the following Oath towit: I, A. B., do solemnly swear that I will execute the office of _____ to the best of my skill and abilities and without Favour, Affection or Partiality, and according to law, so help me God.

XXII. And be it further Enacted by the Authority aforesaid, that where any Invasion or Insurrection shall happen within this State, that the nearest Militia Officer shall give immediate Notice thereof to the Commanding Officer of the County who shall communicate the same as soon as may be to the Brigadier General of the District, who shall convey the same to the Governor, or Commander in Chief, and in the meantime every such Officer shall Use his Utmost Endeavors to collect a Force sufficient to repel the Enemy, or suppress the Insurrection; and every Officer failing herein shall be subject to such punishment as shall be adjudged by a Court Martial.

XXIII. And be it further Enacted by the Authority aforesaid, That every Sergeant, for levying any fine for not attending at General or Private Musters, and for not appearing properly equipped, shall have and receive the following fees, viz: For non-attendance, four shillings, for fines for not being equipped one shilling and four pence, to be paid out of the said Fines; and when any Apprentice or Servant or Minor shall absent himself from Militia Duties he shall be subject to the penalties by this Act directed for offences of the same nature; and if by this Act such offences are made subject to a Fine or Fines such Fine or Fines shall be levied by distress upon the Effects of the Master or mistress of such servant or Apprentice, or upon the Effects of the parent of such Minor, or of his Guardian in Case he shall be an Orphan.

XXIV. And be it further Enacted by the Authority aforesaid, That when the Militia of this State shall be ordered into Service the Commanding Officer shall receive a Tent for every Six men under his Command from the Commissary of Stores, and after the Expiration of such Service the Commanding Officer shall return the Tents together with all Pots, Camp Kettles, Axes & other Tools to the Colonels of their respective Counties where all such articles shall be carefully preserved by him for further Occasions.

XXX. And be it further Enacted by the Authority aforesaid, That it shall and may be lawful for the Commanding Officer of the Militia in this State, to continue any Brigade, Regiment or Division of Militia on actual service for any time not exceeding three months if he shall think that the safety

of the State require it. Provided, it shall not intend to be construed to extend to authorize him to continue the Militia now on Actual Service out of this State longer than the Time they were drafted for.

XXVI. And be it further Enacted by the Authority aforesaid, that when any Complaint shall be made against any Officer of the Militia the Commanding Officer, if the Complaint be not against Himself, if so the next Officer in Command shall cause a Court Martial to be called which shall consist of one or more of the Field Officers, and at least the Majority of the Captains of the Regiment, who shall hear the Charges and Allegations made against any Officer or Officers; Provided such be made upon Oath, and a Notice of ten days at least given to the party complained against, and if such Complaint shall appear to be well founded and to warrant a removal of such officer, the said Court Martial shall and may sentence such person accordingly and at the same time recommend a proper person to succeed such Officer, and if such sentence relates to a Field Officer the president of the Court shall make return of all the proceedings of the said Court Martial to the next General Assembly. But if the same relates to a Captain or Subaltern Officer the said President shall make return of the said Proceedings to the Brigadier of the District and if the same be approved by him, then the Commanding Officer of the County shall proceed to procure a Commission from the Government for such person so recommended.

XXVII. And be it further Enacted by the Authority aforesaid, That if any number of men not exceeding thirty or less than fifteen, shall form themselves into a Company of Horse, accoutreing each and every man thereof with a Carbine, a Cutlass and a pair of pistols, under the Command of a Captain, Lieutenant, and Cornet, it shall and may be lawful for such Company, first reporting the same to the Colonel of the County to which this Company belongs at the same time recommending the officers for the said Company to obtain from the Governor to whom the Colonel Commandant of the County in which they reside is hereby required to signify the same, Commissions for the same recommended Officers and thenceforth as long as the said Company may continue shall be exempt from all foot Service whatsoever; and when on Service the Captain shall have and receive forty Shillings per Day, Lieutenant thirty-six, and Cornet twenty-four; Provided, nevertheless, that the said Company shall be as much subject to the Command and Orders of the Colonel of the Regiment to which they may belong as any Company of foot within the Same.

XXVIII. Whereas the Court House in Rowan County is situate upwards of forty miles from the north west Extremity of said County which renders it very inconvenient and disadvantageous to the Inhabitants of that part of said County to attend General Musters; for Remedy whereof,

XXIX. Be it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, that from and after the passing of this Act it shall and may be lawful for the Commanding Officer of said County whenever it shall be found necessary to hold a General Muster, to order the District of the following Captains to meet at Reed's old field near Henry Chambers' (viz) Joseph Dickens, David Crawford, David Caldwell, George Davidson, Patrick Morrison, James Person, Gilbuth Falls, William Wilson, Jacob Nochles, Samuel Reed.

XXX. And be it further Enacted by the Authority aforesaid, That it shall not be lawful for the Comanding Officer of said County to order the aforesaid

Districts to meet at the Court House of said County unless it may be absolutely necessary to call the whole Regiment together.

XXXI. And be it further Enacted by the Authority aforesaid, That it shall and may be lawful for the Commanding Officer of Said County when he orders a General Muster of said District to order one or more of the Field Officers of said County to attend the same & there hold a Court Martial to try and determine all matters and things in as full and as ample a manner as any other Regimental Court Martial in this State.

XXXII. And be it further Enacted by the Authority aforesaid, that in case of the Death or resignation of all, or any of the said Captains, it shall not be construed so as to effect any of the said Districts as they now stand, so as to deprive any Militia man in said District from the Benefit of this Act; any Law, Usage, or Custom to the Contrary notwithstanding.

XXXIII. And be it further Enacted by the Authority aforesaid, That the Militia of this State now in actual Service Shall from the passing of this Act be intituled to the same pay, Rations and Subsistence and all other privileges which any of the Militia of this State are intituled to by Virtue of this Act.

XXXV. And be it further Enacted by the Authority aforesaid that all former Acts or parts of Acts which come within the purview of this Act are hereby repealed.

CHAPTER II.

An Act for raising Forces for the defence of this and the neighbouring States and other purposes therein mentioned.

I. Whereas it is necessary for the support of this and the neighbouring States that a force should be immediately embodied and marched to the seasonable relief of the militia of this Government who are now in actual service and whose time of service will expire in the month of April next,

II. Be it therefore enacted by the General Assembly of this State, and by the authority of the same, that the Governor do immediately issue orders to the Colonels of the respective Counties, directing them to call a general Muster of the Militia of the several counties, and such Colonels are hereby impowered to enlist all such able bodied men who will engage to serve this State for three months from the time of leaving the limits thereof, and shall pay as a bounty to all such able bodied volunteers the sum of three hundred dollars and such volunteers shall be further entitled to the daily pay and subsistence which the militia when in actual service are authorized to receive and shall be further entitled to draw upon the public Commissary daily and every day for a Gill of Spirits.

III. And be it further enacted that in case a sufficient number of volunteers cannot be had the Colonels of the respective Regiments shall direct draughts to be made in such manner and in such proportions as has been heretofore directed by the Law of this State for regulating the mode of draughts.

IV. And be it further enacted by the authority aforesaid that the Governor shall allot to each and every County of this State its respective proportion of fifteen hundred men, which proportion such County is hereby enjoined to furnish; and the Colonels of the respective regiments are impowered and directed to raise their proportionable number in the

first Instance by the enlistment of volunteers as aforesaid and in case of their deficiency to complete the Quota by draughts and such draughted soldiers shall be entitled to a bounty of One Hundred and Fifty Dollars, the pay and subsistence of Militia and a Gill of Spirits; and such draughted soldier shall be bound to serve for three months from the time of leaving the limits of this State.

V. And be it further Enacted by the authority aforesaid, That the Governor shall immediately order the men commonly called nine months men and heretofore raised by virtue of an act of Assembly of this State, to march immediately to join the army under the command of General Lincoln.

VI. And whereas many persons lately draughted to march to the Southward to reinforce the army under General Lincoln, have failed or refused to march accordingly or after marching and continuing in service for some time have deserted and returned home, be it therefore enacted by the authority aforesaid that the Colonels or Commanding Officers in their respective Counties shall order all such persons to march agreeable to the orders issued by his Excellency the Governor, and if any person so ordered shall fail to comply, he shall be subject to the pains and penalties in such case by the Laws provided for regulating the militia of this State.

VII. And be it further Enacted by the authority aforesaid, that the volunteers and drafted men by this act directed to be raised shall be formed into two Regiments to be commanded by militia officers and that the Field Officers and other Officers necessary for the command of one of the said Regiments shall be taken out of the Districts of Hillsborough and Salisbury, and the officers necessary for the other Regiments from the Districts of Halifax, Edenton, New Bern and Wilmington agreeable to the Militia Law.

VIII. And be it further Enacted by the Authority aforesaid, That his Excellency the Governor be Directed to grant Warrants on the Treasurer's or either of them to the Colonels or Commanding Officers in their respective Counties for so much money as shall appear to him to be necessary to pay the bounty proposed and held out by this Act to Volunteers and Drafted men taking bond and security for faithfully applying and accounting for the same.

IX. And be it further Enacted by the authority aforesaid, that if any Colonel or commanding officer shall advance the bounty by this Act directed to be paid to the Volunteers and drafted men, such Colonel or Commanding Officer shall be entitled to receive the sum by him so advanced with six per centum Interest thereon out of the public Treasury on Settlement of his account with the General Assembly.

X. And be it further Enacted by the Authority aforesaid, That the Governor with the advice of the Counsel shall be empowered to order the drafted men and also the Volunteers hereby directed to be raised, to the Assistance of our neighbouring State and without the limits of this Government whenever our own safety or the necessary defence of our neighbouring States shall require.

XI. Provided always, That this Authority so invested in the Governor and Council of this State shall not be considered longer to continue than during the term this act shall be in force and this act shall continue in force for the term of six months and no longer.

LAWS OF NORTH CAROLINA, 1778.

At a General Assembly, begun and held at New Bern on the Fourteenth Day of April, in the Year of our Lord One Thousand Seven Hundred and Seventy Eight, and in the Second Year of our Independence: Being the First Session of this Assembly. *Richard Caswell, Esq.*, Governor.

CHAPTER I.

An Act for raising Men to complete the Continental Battalions belonging to this State.

I. Whereas it is absolutely necessary that the continental Battalions belonging to this State be compleated, and it is found impracticable to obtain that End in the common Mode of recruiting;

II. Be it therefore Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That Two Thousand Six Hundred and Forty Eight Men shall be raised and detached from the Militia of this State towards compleating the same, in the following Proportion and Manner, viz. From the County of Craven Eighty Six, Carteret Thirty, Beaufort Twenty Six, Johnston Thirty Four, Hyde Twenty Eight, Dobbs One Hundred and Three, Pitt Thirty Five, New Hanover Thirty Two, Onslow Forty-Seven, Bladen Sixty Three, Duplin Sixty Two, Cumberland Seventy Three, Brunswick Thirteen, Rowan One Hundred and Seventy Four, Mecklenburg One Hundred, Tryon Eighty Three, Anson Seventy Eight, Surry Eighty Eight, Guilford One Hundred and Fifty Six, Burke Sixty Two, Washington Sixty Two, Wilkes Thirty Five, Orange One Hundred, Granville Seventy, Wake Sixty, Chatham Sixty Six, Caswell Seventy Seven, Halifax Eighty Six, Northampton Sixty Two, Edgecombe Sixty Three, Bute One Hundred and Five, Martin Thirty Seven, Nash Fifty Six, Chowan Thirty Three, Perquimons Thirty Three, Pasquotank Forty Five, Currituck Fifty, Bertie Seventy Six, Tyrrell Thirty Four, Hertford Sixty Two, and Cambden Forty One. And the Colonel or Commanding Officer in each County is hereby directed to order the Field Officers and Captains to his Regiment belonging to meet at the Court House on or before the Twenty-Fifth Day of May next, and the Field Officers and Captains shall then and there apportion the Men to be raised in the County to the several Companies, in Proportion to the Number of Militia, including Officers of every Rank, his Excellency the Governor only excepted, in each Company respectively, after deducting for such Militia Men only as shall have heretofore actually inlisted good and able bodied Men as regular Soldiers, or cause such to be inlisted, to serve in the continental Army agreeable to the Act passed in May One Thousand Seven Hundred and Seventy Seven, for encouraging the recruiting Service, which said Inlistments they shall prove by their own Oath, and the Testimony of an indifferent Person, to be obtained without Fraud or Collusion in due Time, and without the Procurement of Assistance of any continental Officer or Soldier, and the commanding Officer in each and every County shall, within Five Days after such Meeting, order a General Muster at the Place or Places by Law appointed, and he is hereby authorized to offer a Bounty of One Hundred Dollars to every able bodied Man who shall voluntarily enter into the Service, and if a sufficient Number of Voluntiers do not turn out,

then the several Companies shall immediately proceed to determine by Ballot who shall go out of each Company, to make up its particular Quota; and the Persons so voted in shall go themselves, or provide able bodied Men to serve in their Stead, and shall be intitled to a Bounty of Fifty Dollars each.

III. And be it further Enacted, by the Authority aforesaid, That if any Company shall refuse to appear and ballot agreeable to this Act, that in that Case the Field Officers shall point out the Men who shall serve. Provided, That it shall not be lawful to vote for any Person who shall produce Certificates of having actually inlisted regular Soldiers, by themselves, or some others for them, to serve in the continental Army, agreeable to the Act passed in May One Thousand Seven Hundred and Seventy Seven, for encouraging the recruiting Service, if such Certificates were granted and obtained fairly and without Fraud, and the Men whose Names are therein mentioned were actually inlisted by or on Account of the Persons claiming such Exemptions, the Proof thereof made agreeable to the Directions of this Act.

IV. And be it further Enacted, by the Authority aforesaid, That each and every Person who shall voluntarily enter or be voted into the Service as aforesaid, shall be intitled to have and receive from the commanding Officer of the County a Pair of Shoes and Stockings, two Shirts, a Hunting Shirt, Waiscoat with Sleeves, a Pair of Breeches and Trousers, a Hat and a Blanket, and Five Yards of Tent Cloth; and every Six Men shall be intitled to have and receive from the said commanding Officer One Axe, and a Pot or Camp Kettle.

V. And in order to procure the Cloathing afore mentioned, Be it Enacted by the Authority aforesaid, That every Company shall furnish and provide One Pair of Shoes and Stockings, Two Shirts, a Hunting Shirt, a Waistcoat with Sleeves, a Pair of Breeches and Trousers, a Hat and a Blanket, Five Yards of Tent Cloth for each and every Man, and One Axe, and a Pot or Camp Kettle, for every six Men raised out of such Company respectively; and the said Articles shall be valued on Oath by Three Freeholders or Householdors, who shall grant Certificates of Valuation to the Persons furnishing the same, which Certificates, with Receipts endorsed from the commanding Officer of the County for Delivery thereof, shall be received by the Taxgatherers in Part of Public Taxes: And if any Company shall fail to furnish its Quota of Cloathing, Tent Cloth, Camp Kettles, and Axes, or any Part thereof, the commanding officer of the County shall have Power to cause so much of the property of any Person or Persons belonging to such Company, refusing to furnish his or their quota of the aforesaid Articles, to be seized and sold, as will procure the Cloathing and other Articles wanted, and shall grant Certificates of the Amount, which shall also be received by the Taxgatherers in Part of Public Taxes.

VI. And be it further Enacted, by the Authority aforesaid, That the Brigadier Generals of each District shall take into their Possession, and distribute to the Troops so raised, such Guns as belong to the Public, and are good and sufficient; and in case there should not be Arms for every Man, then, and in that Case, the Colonel or commanding Officer of each County shall purchase Guns for the Men marching from the same, and shall give Certificates to those from whom the Guns are bought; which Certificates, countersigned by the Clerks of the respective Counties, shall be paid by the Treasurer of either District, and allowed in the Settlement of their Accounts with the Public.

VII. And be it Enacted, by the Authority aforesaid, That the Men who shall be raised in Manner aforesaid in the Districts of Halifax, Edenton, New

Bern and Wilmington, shall march to Halifax, and from thence to Petersburg in Virginia, and those who shall be raised in the Districts of Hillsborough and Salisbury, shall rendezvous at Peytonsburg in Pittsylvania, with all possible Expedition, under the command of such continental Officer or Officers as the commanding officer in the continental Service in this State shall appoint for that Purpose; and if there be none such appointed in any County then the commanding Officer of the Militia in such County shall appoint a Person to conduct the Men thereto belonging either to Halifax, or to Peytonsburg in Virginia, as the Case may require, there to be delivered to the continental Officer appointed to receive them, and such Person shall be allowed Captain's Pay and Rations during the Time of his Employment; and the Men who shall be raised in Manner aforesaid, shall serve in the continental Battalions of this State for the Space of Nine Months from the Time that they shall arrive at either of the Places aforesaid, unless sooner discharged, and shall be subject to the same Rules and Discipline and have the same Pay and Rations, as the continental Troops, from the Day of their being voted in or inlisted.

VIII. And be it Enacted, by the Authority aforesaid, That in case any Person so voted in, or voluntarily entering as a Soldier agreeable to the Directions of this Act, shall fail to appear in due Time at the Place of general Rendezvous, or shall desert his Duty during the Time specified in this Act, such Person shall from thenceforward be held and deemed a continental Soldier during the present War, and shall be liable to be taken as such; and every Person who shall voluntarily inlist, or be voted into the Service, in Consequence of this Act, and shall well and faithfully serve as a Soldier, agreeable to the true Intent and Meaning of this Act, shall be free and exempt from serving again as a Soldier for the Space of Three Years next after the Time of his procuring a Certificate of his having served as aforesaid. And if any Person shall harbour or conceal any of the Men who shall voluntarily enter or be voted into the Service as aforesaid, such Person, on Conviction thereof before any Justice of Peace in the County wherein the Offence shall be committed, shall be deemed a continental Soldier, and shall be turned over by the said Justice to a continental Officer, or committed to Gaol for that Purpose, and shall serve for Three Years, or during the War.

IX. And be it Enacted, by the Authority aforesaid, That the Captains of each and every Company shall return descriptive Lists of the Men raised in such Company, specifying the Name, Size, Age, Complexion and Occupation, of the Men so raised, and also the Name and Number of the Company from whence they were taken: And the said commanding Officer shall make two fair Copies of such descriptive Lists, one of which he shall deliver to the continental or other Officer appointed to take Charge of the Men, and he shall take a Receipt for the Delivery of the Men on the other.

X. And be it further Enacted, That the Quakers, Dunkers, Moravians, and Menonists, shall furnish Men in Proportion to their respective Numbers in each County, and in Default thereof, the commanding officer of each and every County is hereby impowered to hire Men instead of the Men to be by them furnished, and by Warrant under his Hand, directed to the Sheriff of the County, to levy the Sum given for such Man or Men on the Goods and Chattels, Lands and Tenements, of any Person belonging to such Sect, as shall refuse or fail to find a Man or Men agreeable to this Act.

XI. And be it Enacted, by the Authority aforesaid, That the Men raised in the County of Rowan, and those raised in the County of Guilford, shall have the Liberty of electing two Captains for each County, and the Men raised in New Hanover County and Brunswick shall elect One Captain joint-

ly; and in such Counties as raise more than Fifty Men, the Men so raised shall and may elect a Captain in every County, and in the Counties which raise a smaller Number than Fifty, the Men shall and may elect One Lieutenant for every County; and the Persons so elected, shall be commissioned accordingly by the Governor, and shall march and continue with their respective Companies, with the Rank of Militia, and the Pay and Rations of regular Captains and Lieutenants, during the Time of their continuing in Service.

XII. And be it Enacted, by the Authority aforesaid, That James Roper and William Sheppard be appointed Contractors for the District of Salisbury, Thomas Hart for the District of Hillsborough, to contract for and purchase Provisions, and issue them to the Men raised in the said Districts until their Arrival at Peytonsburg in Virginia; and that William Bennet be appointed for the District of Edenton, Hardy Bryan for the District of New Bern, Thomas Amis for the District of Wilmington, and William Amis for the District of Halifax, for the like Purposes, until the Men raised in the said District respectively shall arrive at Halifax, and then that William Amis be appointed to take Charge of all those who rendezvous at Halifax, and conduct them as far as Petersburg: And the said Contractors, and every of them, shall grant Certificates to the Owners for the Provisions by them respectively furnished, and shall have full Power to seize Provisions of every Kind from any Persons who shall or may have more Provisions than may be necessary for their own Use or Family Consumption, if the Owners shall refuse to sell the same, and shall grant Certificates as aforesaid; and the said Certificates shall be redeemed at the next Session of Assembly: And the said Contractors shall keep regular Accounts of their Disbursements or Purchases, and of all Certificates by them granted, that the Assembly may not be defrauded by Claimants, and may more easily settle with the said Contractors, who shall be allowed One Hundred and Twenty Dollars per Month for their Trouble, over and above all Sums of Money by them expended for the Purposes aforesaid.

XIII. And be it Enacted, by the Authority aforesaid, That the Colonel or commanding Officer of the Militia in each County be, and he is hereby empowered and required, to furnish the necessary Waggons and Carts for marching the Troops raised in such County, agreeable to the Militia Law.

XIV. And be it further Enacted, by the Authority aforesaid, That the Owners of said Waggons shall be allowed Forty Shillings per Day, and Forage and Shoes for their Horses, and every Cart the Sum of Twenty Shillings per Day, with Forage and Shoes for their Horses; and the said Waggons and Carts with Teams, before marching, shall be appraised by Three Freeholders, that in case of Loss or Death, the Owner may be paid for the same.

XV. And be it Enacted, by the Authority aforesaid, That the continental Deputy Paymaster General be, and he is hereby directed to pay the Troops aforesaid; and that his Excellency the Governor be, and he is hereby empowered to grant Warrants on the Treasury to the said Paymaster for the necessary Sums, taking Security for due Application of the same.

CHAPTER II.

An Act for Restraint of Vagrants, and preventing Desertion.

I. Whereas Desertion, and the Evils arising from vagrant ill disposed People, are become too frequent;

II. Be it Enacted by the General Assembly of the State of North Carolina,

Districts to meet at the Court House of said County unless it may be absolutely necessary to call the whole Regiment together.

XXXI. And be it further Enacted by the Authority aforesaid, That it shall and may be lawful for the Commanding Officer of Said County when he orders a General Muster of said District to order one or more of the Field Officers of said County to attend the same & there hold a Court Martial to try and determine all matters and things in as full and as ample a manner as any other Regimental Court Martial in this State.

XXXII. And be it further Enacted by the Authority aforesaid, that in case of the Death or resignation of all, or any of the said Captains, it shall not be construed so as to effect any of the said Districts as they now stand, so as to deprive any Militia man in said District from the Benefit of this Act; any Law, Usage, or Custom to the Contrary notwithstanding.

XXXIII. And be it further Enacted by the Authority aforesaid, That the Militia of this State now in actual Service Shall from the passing of this Act be intituled to the same pay, Rations and Subsistence and all other privileges which any of the Militia of this State are intituled to by Virtue of this Act.

XXXV. And be it further Enacted by the Authority aforesaid that all former Acts or parts of Acts which come within the purview of this Act are hereby repealed.

CHAPTER II.

An Act for raising Forces for the defence of this and the neighbouring States and other purposes therein mentioned.

I. Whereas it is necessary for the support of this and the neighbouring States that a force should be immediately embodied and marched to the seasonable relief of the militia of this Government who are now in actual service and whose time of service will expire in the month of April next,

II. Be it therefore enacted by the General Assembly of this State, and by the authority of the same, that the Governor do immediately issue orders to the Colonels of the respective Counties, directing them to call a general Muster of the Militia of the several counties, and such Colonels are hereby impowered to enlist all such able bodied men who will engage to serve this State for three months from the time of leaving the limits thereof, and shall pay as a bounty to all such able bodied volunteers the sum of three hundred dollars and such volunteers shall be further entitled to the daily pay and subsistence which the militia when in actual service are authorized to receive and shall be further entitled to draw upon the public Commissary daily and every day for a Gill of Spirits,

III. And be it further enacted that in case a sufficient number of volunteers cannot be had the Colonels of the respective Regiments shall direct draughts to be made in such manner and in such proportions as has been heretofore directed by the Law of this State for regulating the mode of draughts.

IV. And be it further enacted by the authority aforesaid that the Governor shall allot to each and every County of this State its respective proportion of fifteen hundred men, which proportion such County is hereby enjoined to furnish; and the Colonels of the respective regiments are impowered and directed to raise their proportionable number in the

292. N. C.—*Assembly, New Bern-Halifax; Recs. Clark, Vol. 24, 1905, Ch. II; Act, Apr. 14, 1778—Jan. 19, 1779, pp. 198-199.*

first Instance by the enlistment of volunteers as aforesaid and in case of their deficiency to complete the Quota by draughts and such draughted soldiers shall be entitled to a bounty of One Hundred and Fifty Dollars, the pay and subsistence of Militia and a Gill of Spirits; and such draughted soldier shall be bound to serve for three months from the time of leaving the limits of this State.

V. And be it further Enacted by the authority aforesaid, That the Governor shall immediately order the men commonly called nine months men and heretofore raised by virtue of an act of Assembly of this State, to march immediately to join the army under the command of General Lincoln.

VI. And whereas many persons lately draughted to march to the Southward to reinforce the army under General Lincoln, have failed or refused to march accordingly or after marching and continuing in service for some time have deserted and returned home, be it therefore enacted by the authority aforesaid that the Colonels or Commanding Officers in their respective Counties shall order all such persons to march agreeable to the orders issued by his Excellency the Governor, and if any person so ordered shall fail to comply, he shall be subject to the pains and penalties in such case by the Laws provided for regulating the militia of this State.

VII. And be it further Enacted by the authority aforesaid, that the volunteers and drafted men by this act directed to be raised shall be formed into two Regiments to be commanded by militia officers and that the Field Officers and other Officers necessary for the command of one of the said Regiments shall be taken out of the Districts of Hillsborough and Salisbury, and the officers necessary for the other Regiments from the Districts of Halifax, Edenton, New Bern and Wilmington agreeable to the Militia Law.

VIII. And be it further Enacted by the Authority aforesaid, That his Excellency the Governor be Directed to grant Warrants on the Treasurer's or either of them to the Colonels or Commanding Officers in their respective Counties for so much money as shall appear to him to be necessary to pay the bounty proposed and held out by this Act to Volunteers and Drafted men taking bond and security for faithfully applying and accounting for the same.

IX. And be it further Enacted by the authority aforesaid, that if any Colonel or commanding officer shall advance the bounty by this Act directed to be paid to the Volunteers and drafted men, such Colonel or Commanding Officer shall be entitled to receive the sum by him so advanced with six per centum Interest thereon out of the public Treasury on Settlement of his account with the General Assembly.

X. And be it further Enacted by the Authority aforesaid, That the Governor with the advice of the Counsel shall be impowered to order the drafted men and also the Volunteers hereby directed to be raised, to the Assistance of our neighbouring State and without the limits of this Government whenever our own safety or the necessary defence of our neighbouring States shall require.

XI. Provided always, That this Authority so invested in the Governor and Council of this State shall not be considered longer to continue than during the term this act shall be in force and this act shall continue in force for the term of six months and no longer.

LAWS OF NORTH CAROLINA, 1779.

At a General Assembly, begun and held at Smithfield on the third day of May, in the year of our Lord, 1779, and in the third year of the independence of the said state: Being the first session of this assembly. *Richard Caswell, Esq.*, Governor.

CHAPTER I.

An Act for raising regular forces for the defense of this and the neighboring states, and for other purposes.

I. Be it Enacted by the General Assembly of the State of North Carolina, and it is hereby Enacted by the Authority of the same, That any ten of the militia, who shall, on or before the 1st day of July next, inlist one able bodied man into the continental service for the space of eighteen months, or a longer period, they shall during the time of such inlistment be cleared from all military duties or drafts whatsoever, except when this state shall be invaded, or in case of domestic insurrection; but to intitle themselves to this exemption, they shall by their own oaths, and likewise by the oath of an indifferent person, prove such inlistment to have been bona fide made, agreeable to the true intent and meaning of this act, and shall likewise produce on oath from the colonel or commanding officer of any county within this state, a receipt for such soldier to him actually delivered; which requisites being performed, the field officers of the county in which they reside are hereby ordered and directed to grant them a discharge, under the penalty of forfeiting one thousand pounds each for every refusal, to be recovered in any court of record having cognizance thereof by the parties grieved, and applied to their own use; And the field officers of any county within this state, who shall grant a discharge to any person or persons contrary to the directions of this act, shall forfeit five hundred pounds each for every offence, to be recovered by any person suing for the same, and applied to his own use; and each of them shall be for ever after incapable of holding any office, either civil or military, within this state.

II. And be it further enacted, by the authority aforesaid, That the colonel or commanding officer of any county to whom such inlisted soldiers shall be delivered over, shall cause such soldiers to be marched to a place of rendezvous within the county in which such officer shall command; and the governor of this state is hereby impowered and directed to appoint such place of rendezvous, and to direct one or more officers of such regular troops to give attendance and receive such recruits.

III. And be it further enacted, by the authority aforesaid, That the captain of each respective company, or any other person or persons by him or them authorized, shall have full power and authority, and are hereby expressly required and commanded, to apprehend and secure every person of the nine months regulars, as also of the three months militia, or any other deserter from the regular service, who have deserted or refused to march in either of the services aforesaid, which they shall know to be lurking within the limits of their command or elsewhere, and shall for that purpose take to his or their assistance so many of their company as he or they shall think

necessary; and every person who shall refuse or neglect, when called upon, to aid and assist in apprehending such deserter or delinquent, for every such offence shall forfeit the sum of fifty pounds, to be recovered by warrant under the hand of the commanding officer, and applied to the use of the county.

IV. And be it further enacted, by the authority aforesaid, That in case two thousand men should not be raised agreeable to this act before the first day of July next, that then, and in that case, the governor, with the advice of the council, shall be impowered to embody a number of militia equal to the deficiency; and such deficiency shall be made up from all the counties of the state, proportionately to the numbers which they shall have furnished by inlistment under this act, and with a respect to the number of which they may be delinquent of their respective portions of the whole two thousand.

V. And be it further enacted, by the authority aforesaid, That the militia so to be embodied shall be intitled to the same pay, bounty and rations, as the militia now in service in the Southern states, and shall be subject to perform the same duty, and serve the same space of time, and subject to the like rules and regulations; and all drafts which may be made shall be agreeable to the militia law, and the practice heretofore had under it.

VI. And be it further enacted, by the authority aforesaid, That all soldiers inlisted by virtue of this law shall be subject to the articles of war which are binding upon the continental army, and shall incur similar pains and penalties for similar offences; and every soldier inlisting shall sign articles of inlistment, agreeable to the continental regulation.

CHAPTER II.

An Act for emitting money for defraying the expences of the war, and for other purposes.

I. Whereas this state has incurred debts by raising men to reinforce the battalions thereunto belonging in the army of the United States, upon the particular requisition of Congress, for the payment of which debts the public faith stands pledged, and that a further sum should be emitted to carry on the operations of the war;

II. Be it therefore Enacted by the General Assembly of the State of North Carolina, and by the authority of the same, That one half of a million of pounds be emitted on the faith and credit of this state, in bills of the following denominations, that is to say, One thousand bills of two hundred and fifty dollars each, one thousand bills of one hundred dollars, two thousand bills of fifty dollars each, twelve thousand bills of twenty five dollars each, ten thousand bills of twenty dollars, twenty thousand bills of ten dollars each and twenty thousand bills of five dollars each; that the same be printed in a printing press, and that Henry Rhodes, Daniel Grant, and Memucan Hunt, be appointed commissioners to superintend the printing the same, and that Thomas Person and John Hunt be commissioners to receive the same when printed and numbered, to sign the same, and pay it into the hands of the public treasurers.

III. And be it further enacted, by the authority aforesaid, That the general form of the bills hereby emitted shall be as follows, to wit. State of North Carolina. This bill entitles the bearer to receive ———— Spanish milled dollars, or the value thereof in gold or silver, agreeable to an act of assembly passed at Smithfield the fifteenth day of May, one thousand seven

LAWS OF NORTH CAROLINA, 1779.

At a General Assembly, begun and held at Halifax on the eighteenth day of October, in the year of our Lord one thousand seven hundred and seventy-nine, and in the fourth year of the independence of the said state; Being the second session of this Assembly. *Richard Caswell, Esq.*, Governor.

CHAPTER I.

An act for sending an aid to the states of South Carolina and Georgia, and for other purposes.

I. Whereas, on the representation of the State of South Carolina, it appears absolutely necessary that an aid should be sent from this state to the aid of that and the state of Georgia;

II. Be it therefore enacted by the General Assembly of the state of North Carolina, and it is hereby enacted by the authority of the same, that it shall and may be lawful for the Governor, with the advice of the Council of State, to order any number of the militia, not exceeding three thousand men, including such drafts as have been made, and are yet to be made, from the respective counties of this state, pursuant to an act passed at Smithfield, intituled, "An act for raising regular forces for the defense of this and the neighbouring states, and for other purposes," to march on with all possible expedition to the defence of the said states of South Carolina and Georgia, to be intituled to the same pay, bounty, and rations, and perform the same duty, and be subject to the same rules and regulations, as the militia late in the service of the southern states, and shall serve three months after passing the limits of this state, agreeable to the militia law; and that the drafts for making up the additional number of militia for this aid, be under the rules and regulations of the militia law now in force.

III. And whereas, many militia officers have, in consequence of the late Act of Assembly passed at Smithfield, or any former Act or resolution of Congress in this State hired substitutes in the continental service, whereby the said officers are discharged from all military duty, except in particular cases, although it was never their intention to withdraw themselves from the service of their country in their respective ranks; Be it therefore enacted, that whoever shall accept hereafter of a commission, or continue to act under any former commission in the militia, such person or persons shall be, and they are hereby declared to be liable to the same rules, regulations and penalties, as any other militia officer, and to have no exemption on account of any substitute; any law to the contrary notwithstanding.

CHAPTER XXIII.

An Act to amend an Act, intituled, "An Act for quieting and securing the Tuscarora Indians, and others claiming under the Tuscaroras, in the possession of their lands.

I. Whereas by the said Act there is no penalty imposed on jurors or witnesses, duly summoned, and failing to attend;

II. Be it enacted by the General Assembly of the State of North Carolina, and it is enacted by the authority of the same, that the commissioners by the said Act appointed, or any three of them, assembled for the purpose of holding a court, shall and may inflict fines on jurors or witnesses so failing to attend, not exceeding one hundred pounds, at their discretion; and unless sufficient excuse be to them afterwards shewn, cause the same to be levied and applied towards defraying the county charges of Bertie: And the witnesses and jurors who shall attend on the trial of any disputes between the said Tuscaroras and others, shall have and receive ten dollars per day for their attendance, to be paid by the party cast, with all other costs; and such trial may hereafter be had on any part of the lands belonging to said Tuscaroras in Bertie County, which the commissioners shall direct.

CHAPTER XXIV.

An Act to amend an Act, intituled, "An Act to regulate and establish a Militia in this State."

I. Whereas it is found necessary to amend the said Act;

II. Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, that every person who shall be legally drafted, or turn out as a volunteer, and shall fail to appear at the place of rendezvous, to serve or perform his tour of duty agreeable to law, or find a substitute to perform the same, then, and in that case, the colonel of the county is hereby impowered to hire a substitute for such person, and to issue his warrant directed to the sheriff or constable of his county, to levy the sum by him given to such substitute on the delinquent's goods and chattles, lands and tenements, and shall sell the same at public auction, first giving five days notice; and after paying the same and all charges thereon, the overplus, if any, to be returned to the owner: And if any volunteer or draft as aforesaid shall not be possessed of sufficient property to hire a substitute, such person shall be deemed and held a continental soldier for the term of twelve months, or during the war.

III. And be it enacted, by the authority aforesaid, that all persons who have heretofore faithfully served in the continental army for the term of one year, shall not be liable to be drafted until the whole of the company to which he may belong shall have performed their tour of duty in turn agreeable to the militia law; any law, usage or custom, to the contrary notwithstanding.

IV. And be it further enacted, by the authority aforesaid, that every captain who shall go on actual service, shall give a receipt to the colonel of his county for all arms and other articles furnished his company going on actual service; and in case such articles are not returned, the captain

shall be accountable for such articles, or the value thereof, unavoidable accidents excepted.

V. And whereas a considerable number of persons have lately marched as volunteers from this State, and are now in the actual service of South Carolina, and it is probable many more may follow their laudable example; Be it further enacted, by the authority aforesaid, that every volunteer who has turned out as such from this State, now in actual service in South Carolina, and who has not been called into such service under the militia law, and all others who shall turn out in the same manner, shall be intitled to the bounty, pay and rations, allowed by law to the militia of this State; and all such persons who shall faithfully serve without the limits of this State for the space of three months, shall be exempt in the same manner as persons serving as volunteers or drafts under the said law.

VI. And be it further enacted, by the authority aforesaid, that any serjeant to whom a warrant shall be directed by his colonel or commanding officer, who shall fail or neglect to execute the same, shall forfeit and pay the sum of two hundred pounds; to be recovered and applied in the same manner as other forfeitures in the said recited Act directed.

VII. And be it further enacted, by the authority aforesaid, that every cart hereafter employed in the service of this State, shall carry one half of the weight prescribed by the said Act to be a load for a waggon.

VIII. And be it further enacted by the authority aforesaid, that no Frenchman, Spaniard, British deserter, Hessian deserter, Indian or slave, shall in future be received by any militia officer as a substitute for any militia soldier or officer, under any pretense whatsoever.

IX. And whereas many disputes have arisen respecting persons who have performed their tour of duty and on their return to the State have been promoted to superior rank to that in which they served; to prevent which in future, Be it further enacted, by the authority aforesaid, that every person who hath or may perform his tour of duty agreeable to the militia law, shall not be subject to be again drafted until it comes to his turn, although such person may be promoted to superior rank from that in which he served.

X. And be it further enacted, by the authority aforesaid, that any commissioned officer, who shall be legally drafted into the service of his country, and shall refuse or neglect to appear at the place of rendezvous appointed by the commanding officer, and march on the said service, or shall after such draft resign his commission, shall by his commanding officer be put in the ranks on the division of the company in which he resides, then going into service, and shall be thereafter incapable of being appointed to any office, civil or military, in this State.

XI. And be it further enacted, by the authority aforesaid, that the colonel or commanding officer of every regiment, who shall not call a general muster of his own regiment agreeable to the directions of the before recited Act, shall forfeit and pay the sum of one thousand pounds for every default; and every captain who shall fail or neglect to muster and train his company as by the said Act is directed, shall for every default forfeit and pay the sum of five hundred pounds; and every non-commissioned officer and soldier neglecting or refusing to attend the general muster, shall forfeit the sum of twenty pounds, and if a private muster ten pounds; which several forfeitures shall be recovered and applied as other fines in the said Act are directed.

XII. And be it further enacted, by the authority aforesaid, that wherever

there is or may be any troop or company of light horse belonging to the militia in any county in this State, such troop or company shall, whenever a draft shall be ordered from the militia, furnish its proportion of men, with their horses, and in that case shall not be subject to be drafted in the foot companies.

XIII. And be it further enacted, by the authority aforesaid, that each waggon and team, with a driver, shall be allowed thirty dollars for each and every day they shall be in service, and every waggoner's discharge shall set forth the time of entering into the service, as well as the time of its being discharged, and the number of miles to return home, and also the number of days forage due from the public to such waggoner, and no waggoner who shall enter into service hereafter shall be allowed for any forage but what is certified as aforesaid; and the quarter master of each brigade shall make a just return to the General Assembly of all the forage due to the several waggons under his command. Provided nevertheless, that when any wagon or cart, and team, shall be impressed into the service, and the owner thereof does not furnish a driver, he shall be allowed the sum of twenty dollars per day, and no more, and each cart half the sum allowed to a waggon in like circumstances; which allowance shall be considered as in full for all damages sustained, unavoidable accidents excepted.

XIV. And be it further enacted, by the authority aforesaid, that the field officers and captains, or a majority of them, shall previous to any drafts in the militia of their respective counties, hold a court of inquiry on the infirmities and inabilities of such militia as may come before them, and excuse such as they shall think unfit for the service from time to time; and that they take an oath before they proceed on such inquiry, as prescribed by law for holding court martial.

XV. And be it further enacted, by the authority aforesaid, that immediately after the passing of this Act, the captain or commanding officer of each company shall make a return of all delinquents that he may know lurking within the limits of his command, to the colonel or commanding officer of his county, who shall immediately proceed against him or them according to law; and every officer who shall neglect or refuse to do the duties by this Act required, shall for every such neglect or refusal forfeit and pay the sum of two hundred pounds; to be recovered by action of debt, before any jurisdiction having cognizance thereof, to be applied as other fines by the militia Act directed.

XVI. And be it further enacted, by the authority aforesaid, that all persons shall be drafted agreeable to the militia law, except such persons as shall produce a legal exemption, obtained without fraud or collusion, and in due time, agreeable to the several acts of Assembly made heretofore for that purpose. Provided, that such exemption shall only be had by the person who originally obtained such certificate, and no other.

CHAPTER XXV.

An Act for raising men to compleat the Continental Battalions belonging to this State, and other purposes.

I. Whereas by reason of the short inlistment of a great number of soldiers of the continental army, the continental battalions of this State are very incomplete;

there is or may be any troop or company of light horse belonging to the militia in any county in this State, such troop or company shall, whenever a draft shall be ordered from the militia, furnish its proportion of men, with their horses, and in that case shall not be subject to be drafted in the foot companies.

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295. N. C.—*Assembly, Newbern; Recs. Clark, Vol. 24, 1905, Ch. XXV; Act, Apr. 17, 1780, pp. 337-339.*

II. Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, that three thousand men shall be immediately recruited within this State for the term of three years, or during the war, and each and every soldier so inlisted shall have five hundred dollars at the time of such inlistment, and shall receive the same cloathing, pay and rations, that the continental soldiers are now, or may hereafter be intitled to.

III. And as a farther consideration, be it enacted, by the authority aforesaid, that each and every soldier who shall well and truly serve and perform his duty as a soldier, shall be intitled to receive at the expiration of every year the sum of five hundred dollars, to be paid him by the proper officer appointed for that purpose, and each and every soldier who shall serve out his three years, or to the end of the present war, shall have and receive one prime slave between the age of fifteen and thirty years, or the value thereof in current money, and two hundred acres of land, to be laid off as herein after located and described; and every soldier inlisted as aforesaid, who may die in the service of his country by the fate of war, sickness, accident, or otherwise, his heirs shall be intitled to receive his pay, together with the slave and land intended to be given him in virtue of this Act.

IV. And be it enacted, by the authority aforesaid, that every soldier who may be disabled in the service, and shall obtain a discharge, shall be intitled to receive the same consideration as if he had served out his full time.

V. Be it enacted, by the authority aforesaid, that all that tract or territory of land situate between the Virginia line and the rivers Tenasee and Holston, as far up as the mouth of French Broad river; thence a direct course to the mouth of Powell's river; thence a direct course to a great gap in Cumberland mountain, about twenty miles south west of the Kentucky road, where it strikes Cumberland mountain; thence a north course to the Virginia line; shall be kept and reserved to and for the use of the said State, and that it shall not be lawful for any person or persons to make entry of, or settle on any of the said lands, until they shall have permission so to do by the Legislature of the said State; and it is hereby declared that the whole of the said lands above recited are held and reserved for the express purpose of laying out therefrom such lands as this State have engaged and promised to the officers and soldiers of their several continental battalions already raised, or which may hereafter be raised.

VI. And be it further enacted, by the authority aforesaid, that if any person or persons shall presume to make entry of, or settle on any of the before recited lands, contrary to this Act, that he, she or they, so entering or settling, shall not thereby be intitled to any pre-emption of or to such lands.

VII. And be it further enacted, that no assignment of transfer made by any soldier of any thing allowed by virtue of this Act, during the continuance of the time for which such soldier may be inlisted, shall be valid.

VIII. And be it further enacted, that his excellency the Governor, upon application to him made, from time to time, may grant warrants on the treasury for all such sums of money as he may deem necessary to Brigadier General Sumner, and the brigadier general of the several districts (and in case of the absence of any brigadier, then, and in that case, to the commanding officer of the respective counties in such district) within this State, for the purpose of carrying this Act into effect; which said brigadiers shall appoint as many recruiting officers in their respective

districts, for the purpose of inlisting soldiers agreeable to this Act, as they may think proper, and may parcel out such portions of the money as they may draw for the purpose aforesaid to such recruiting officers, first taking bond, with sufficient security, for the due application and accounting for the same: And the said brigadiers, on receiving such warrants as aforesaid, shall also give bond, with approved security, to the Governor, for the due application of all money to be by them received in consequence of such warrants, and shall make an accurate return of the whole amount of the sums received, and the number of men recruited therewith, to the next Assembly; and the militia and continental officers so employed in recruiting, shall be intitled to two hundred and fifty dollars for each and every able bodied man they may inlist by virtue of this Act; and a drum and fife shall be allowed each officer employed in the said service. Provided nevertheless, that this Act shall not extend to authorize any recruiting officer to inlist any sailor, seaman, or foreigners, not citizens of this State, or the United States, previous to the passing of this Act.

IX. And whereas it hath been represented to this General Assembly, that sundry of the subjects of this State have, contrary to the laws, and in direct violation of the treaties subsisting between this State and the Cherokee Indians, settled beyond the boundary line, on the lands reserved for the said Indians' hunting ground, to their great uneasiness; Be it therefore enacted, by the authority aforesaid, that none of the said persons so unlawfully settled shall be intitled to enter, survey, or take up, any of the said lands, but that they remove themselves therefrom before the first day of January next; and if they shall refuse or delay to remove themselves, and are found on the said lands after the day aforesaid, they, and every one of them, shall forfeit and pay the sum of five hundred pounds; to be recovered in any court having cognizance of the same, to the use of the State, and be liable to be forcibly removed therefrom; and the Governor, or commander in chief for the time being, is hereby authorized and required to order out such force from any of the neighboring counties as may be sufficient to effect the same.

CHAPTER XXVI.

An Act for granting an aid to the State of South Carolina, and other purposes.

I. Whereas from the actual invasion of South Carolina by a large army of British troops, and from the weak and defenceless situation of that State, it becomes absolutely necessary that a considerable aid should be immediately detached from the militia of this State for its relief;

II. Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, that his Excellency the Governor do immediately issue orders to the brigadier generals of the respective districts, in this State or in case of the absence of any of the said brigadiers from their districts, to the commanding officers of the respective counties for such district; directing that a proportional number for each county of four thousand able bodied men be immediately inlisted voluntarily by the commanding officers of the respective counties, to serve the State for three months from the time of leaving the limits thereof, and shall pay as a bounty to all such able bodied volunteers the sum of three hundred dollars; and such volunteers shall be further entitled

to order the district of the following captains to meet at Thomas Allison's, senior, plantation, Fourth Creek, viz. David Crawford, D. Caldwell, Patrick Morrison, James Furviance, Galbreath Falls, Jacob Nichols, Samuel Reed.

XLII. And be it further enacted, that it shall not be lawful for the commanding officer of said County to order the abovesaid districts to meet at the Court House of said County, unless it may be absolutely necessary to call the whole regiment together.

XLII. And be it further enacted, that it shall and may be lawful for the commanding officer of said county, when he orders a general muster of said district, to order one or more of the field officers of the said County to attend the same, and there hold a court martial to try and determine all matters and things, in as full and ample manner as any other regimental court martial in this State.

XLIII. And be it further enacted, that every former act or acts, which come within the meaning of this Act, shall be, and the same are hereby declared to be repealed and made void. Provided nevertheless, that all penalties for offences against the late militia law shall apply, remain, and be recoverable, in the same manner as if this act had never been made.

CHAPTER II.

An Act to reduce the six Continental Battalions belonging to this State to four, to compleat the said four Battalions, and for other purposes therein mentioned.

I. Whereas the honourable the Congress have resolved that the Continental Battalions belonging to this State shall be reduced to four, and have requested that the said battalions be immediately compleated; and as it has been found impracticable to fill up the same by the common mode of recruiting, and the pressing necessity for their being immediately compleated being evident, recourse must be had to other methods for effecting the same:

II. Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, that the said six battalions be, and they are hereby reduced to four.

III. And be it further enacted, by the authority aforesaid, that two thousand seven hundred and twenty four men shall be raised from the militia of this State to compleat the said battalions, in the following manner: The colonel or commanding officer of each and every battalion is hereby directed to order the field officers and captains of his battalion to meet at the place by law appointed for the general muster of his said battalion, or at some other convenient place, on or before the twentieth day of March next, and the field officers and captains shall then and there divide the said battalion, officers and men of every rank included (his excellency the Governor, Judges of the Superior Courts of Law, Continental Delegates, Attorney General, and Public Secretary, excepted) into classes of fifteen men, after deducting all such who, by themselves or substitutes, faithfully served for the space of nine months, agreeable to Act of Assembly passed at Newbern in May, one thousand seven hundred and seventy eight, and who shall produce their discharge, regularly and fairly obtained, to the commanding officer of the battalion to which they respectively belong, and all such as were captured and made prisoners when in the actual defence of the United States, and are now on parole, or prisoners with the enemy; provided that this Act shall not be construed

so as to exempt any persons who have served or hired substitutes under an Act passed at Smithfield in May, one thousand seven hundred and seventy nine, or any other Act not herein mentioned, such Acts not having exempted any person from military duty in cases of actual invasion or insurrection: And whereas it may happen that a number not sufficient to make a class may be left after dividing the battalions into classes of fifteen, then, and in that case, it shall be lawful for the said commissioned officers, field officers and captains, by lot, to determine what men shall be of the said number, and to which class each of them shall be added, therein to stand a draft, provided the class to which he may belong do not produce a volunteer on the day of the general muster: And the colonel or commanding officer of each battalion of militia shall within fifteen days after such meeting order a general muster at the place by law appointed, or other convenient place, and is hereby authorized there to offer a bounty of three thousand pounds to every able bodied man, over and above a bounty of three barrels of corn for his wife, and two for each of his children who shall be in his family, and shall be under ten years of age, such corn to be delivered annually to his wife or assignee, or her order, by the commissioner of the county wherein she may reside, or by some other person appointed for that purpose, for and during the term the said volunteer or draft may continue in service, and the commissioner shall be allowed for the same in the settlement of his public accounts; the said three thousand pounds to be paid either in money or certificates upon the public treasury, bearing an interest of six per cent. per annum till paid, and free from taxation, and shall be a tender in payment of public taxes, the sum for which such certificates may be granted to be payable to the person to whom they are granted, or his assigns, within twelve months after the inlistment, to every able bodied man who shall inlist, or be drafted in the said Continental Battalions for the space of twelve months; and the said volunteers shall be subject to the same rules and discipline, and have the same pay and rations, as the Continental troops belonging to this State, from the day of their being inlisted: And in case a sufficient number of volunteers do not then inlist, the commanding officer shall immediately order one man to be drafted from each of the classes which have failed to produce a volunteer; and each of the men so drafted shall be intitled to receive the same bounty, pay and rations as if they had inlisted, and shall be obliged to serve in the Continental Battalions of this State for the same term, and be subject to the same rules and discipline, as the said volunteer, or produce an able bodied substitute on the day, and at the place appointed by this law for the district rendezvous; which substitute on being approved of by the field officer delivering, and the Continental officer receiving him, shall be intitled to the bounty, pay and rations, and shall be obliged to serve for the same term, and be subject to the same rules and discipline, as the said drafted man would have been, had he not hired such substitute; all the taxable property within the district of each battalion, whose owners are neither in the Continental service or liable to be classed as by this Act directed, shall be subject to a tax of three pounds upon every hundred pounds value of the same (the property of orphans excepted) an exact list of the names of the owners of which property shall be returned by the respective captains and commanding officers of the companies of each battalion to the collectors and county treasurers aforesaid, on or before the twentieth day of April next.

IV. And be it further enacted, by the authority aforesaid, that the collectors of the pecuniary tax in the respective districts, collect and pay

into the hands of the county treasurers, all the tax payable by virtue of this Act, on or before the first day of October next; and any collector who shall fail to collect the aforesaid tax, or to pay the same to the treasurers of the respective counties, and the county treasurer neglecting to pay the same to the respective district treasurers, shall forfeit double their commissions.

V. And be it further enacted, by the authority aforesaid, that every person who shall voluntarily enlist himself into the Continental service during the war, shall be intitled to have and receive as a bounty the sum of two thousand pounds, to be paid in the same manner as the three thousand pounds herein before directed to be paid as a bounty to such persons as shall voluntarily enlist or be drafted into the Continental service for the space of twelve months, to be paid him on the day upon which he shall arrive at the place of general rendezvous appointed for the troops raised in the district wherein such person shall so enlist, and be intitled to the same clothing as the Continental soldiers now in the service of the United States are intitled to; and every person enlisting in the war as aforesaid, upon his producing a certificate of having so served from the colonel of the regiment to which he belonged, shall be intitled to have and receive, as a recompence for such service, one prime slave, or the value thereof, and six hundred and forty acres of land, under the same rules and restrictions as the additional bounty given to soldiers enlisting in the Continental service under the Act for that purpose passed the first session of the present General Assembly, that is to say, no disposition or transfer of lands or negroes by this Act allowed to drafts or volunteers, made by the said drafts or volunteers during the time of their service, shall be in any wise good, except where they shall transfer or dispose of the same by will; and in case any of the said drafts or volunteers shall die intestate before the expiration of the time of their enlistment, the said negroes and lands to which they are intitled respectively, shall go and descend to their legal representatives.

VI. And be it further enacted, by the authority aforesaid, that the men so raised shall rendezvous on or before the twenty fifth day of April next at the following places, to wit, those from the district of Salisbury at Salisbury, from the district of Hillsborough at Hillsborough, from the district of Edenton at Edenton, and Halifax at Halifax, from the district of Newbern at Smithfield, and Wilmington at Duplin Court House, unless otherwise ordered by the brigadier general of the respective districts; and in case any of the said volunteers and drafts should fail to appear at the day and place appointed for the district rendezvous, or at any time, place or places, that may hereafter be appointed by the commanding officer for the time being, they being considered by this law as Continental soldiers from the day of the drafts or enlistments, shall be treated as deserters by a court martial composed of Continental officers.

VII. And be it further enacted, by the authority aforesaid, that any volunteer or draft faithfully serving, either by himself or substitute, the aforesaid term, shall be exempted from all drafts whatever for twelve months from the date of his or his substitute's discharge, provided it be certified on the back of said discharge, by the commanding officer of the militia battalion to which such volunteer or draft belonged at the time of his entering the said service, that he has reason to believe the said volunteer or draft has faithfully served as aforesaid, and been legally discharged; and in case of the death of any of the said volunteers, drafts or substitutes,

when in the service of this State, their families shall be provided for in the same manner as during their service.

VIII. And be it further enacted, by the authority aforesaid, that if any person shall harbour, conceal or abet, any soldier deserting from the Continental army, the person so harbouring, concealing or abetting, such soldier, where the circumstances of such harbouring, concealing or abetting furnish a sufficient presumption that the person so harbouring knew him to be a deserter, on conviction before three justices of any county in this State, shall be deemed a Continental soldier during the war, and shall serve in one of the battalions belonging to this State, or deliver an able bodied substitute to the commanding officer of the militia battalion of the district wherein he resided at the time of his so harbouring, concealing or abetting, any Continental deserter as aforesaid, or to the commanding officer of the Continental battalion to which he may be turned over; and in case the person so harbouring, concealing or abetting, such soldier, and convicted as aforesaid, should not be sufficiently able bodied to serve as a soldier, and should neglect to deliver an able bodied substitute to the commanding officer of the militia battalion as aforesaid within ten days after such conviction, or being able bodied should abscond, or having joined the Continentals belonging to this States should desert, the commanding officer of the said militia battalion is hereby authorized and commanded to hire a substitute in the stead of the person not being able bodied, and neglecting to deliver a substitute as aforesaid, or being able bodied, and absconding or deserting, and to cause the hire and expence of such substitute to be levied by warrant under his hand and seal on the goods and chattels, lands and tenements, of the person so offending.

IX. And be it further enacted, by the authority aforesaid, that the captains shall return descriptive lists of the volunteers and drafts raised in and from the several classes apportioned to them to their colonel or commanding officer within two days after such draft, therein specifying the name, size, age, complexion, and occupation, of the men so raised, and also the name of the captain from whose company they were taken; and the said commanding officer shall make two fair copies of such descriptive lists, one of which, by him or one of his field officers, to be delivered with the men so raised, on or before the twenty fifth day of April next, at the district rendezvous, to the Continental officer, or other person appointed to receive and take charge of the said men, and shall take a receipt for the delivery of the men on the other, and shall then take a descriptive list, of all substitutes there offered by drafted men of the battalion to which he belongs, and approved by the persons appointed for that purpose; one fair copy of which list he is required to deliver with the said substitutes to the Continental officer, or other person appointed to receive and take charge of the said men, and shall take a receipt for the said substitutes, in like manner as for the said drafts; and one other fair copy of the descriptive list of such substitutes, together with receipts for the volunteers, drafts and substitutes as aforesaid, shall be returned to, if not taken by, the militia colonel or commanding officer of the battalion.

X. And be it further enacted, by the authority aforesaid, that the commanding officers of the battalions shall send a list of the volunteers, drafts and substitutes, to the brigadiers general of their respective districts, within fifteen days from the district rendezvous; and the brigadiers general shall, within one month from the receipt of such list, transmit copies thereof to his excellency the Governor for the time being.

XI. And be it further enacted, by the authority aforesaid, that each and every person who shall voluntarily enter or be drafted into the said service, or be received as a substitute by the persons appointed for the purposes aforesaid, shall be intitled to have and receive two pair of shoes, two pair of stockings, two shirts, two stocks, one pair of breeches, one pair of overalls, one waistcoat, one coat, one hunting shirt, one blanket, and one hat; which cloathing shall, if possible, be delivered to each volunteer, draft and substitute, on the day and place of the district rendezvous, or as soon after as they can be made up.

XII. And in order to procure the cloathing afore mentioned, Be it enacted, by the authority aforesaid, that every class shall furnish, provide and deliver, to the colonel or commanding officer of the battalion to which such class belongs, two pair of good strong shoes, one pair of good warm yarn or cotton stockings, one pair of good thread or cotton stockings, two good and strong linen shirts, two black leather stocks, one pair of good buckskin or good thick and strong woollen cloth breeches, one pair of good and strong linen overalls, one waistcoat of good thick and strong woollen cloth lined with linen, one coat of the same with the waistcoat lined with linen, with capes and cuffs of blue cloth of the same quality, one good and strong hunting shirt with a blue linen cape, one good and well made wool hat, for the volunteers, drafts or substitutes, of their own class, and in proportion to the assessment of their taxable property for the year one thousand seven hundred and eighty; and the colonel or commanding officer is hereby required to cause the said clothing to be appraised by two freeholders, and to give certificates to the persons furnishing the same, which shall be received in payment of taxes; and in case any class should fail to deliver the same to the colonel or commanding officer of the battalion to which the said class belongs within twenty days after the day of general muster of the battalion as aforesaid, the commanding officer is hereby authorized and commanded to appoint a proper person or persons to purchase said articles of cloathing, and by warrant under his hand and seal to levy the cost and expence attending the purchasing the same in due proportion to their taxable property aforesaid.

XIII. And be it further enacted, by the authority aforesaid, that the colonel or commanding officer who may attend at the district rendezvous take proper methods to have the cloathing at the said rendezvous, and see it delivered to the soldiers for whom it may be provided; and the County Commissioners are hereby required to deliver, by order of the commanding officer of the county battalion, to the soldiers raised as aforesaid, rations sufficient to serve them to the district rendezvous, allowing fifteen miles for a day's march.

XIV. And be it further enacted, by the authority aforesaid, that every militia officer employed in carrying this Act into execution, shall be allowed full pay and rations for every day of actual service: And each and every militia officer neglecting or refusing to do any or every of the duties by this Act required, shall forfeit a sum equal to three months pay, to be collected in the same manner as fines and forfeitures inflicted by the militia laws are collected; which fines and the money arising from such forfeitures shall be immediately paid to the county treasurer for the use of the county.

XV. And whereas it may happen that some counties of this State may be prevented by means of invasion from making the draft hereby directed to be made on the time aforesaid, Be it further enacted by the authority aforesaid, that if any of the counties of this State shall be prevented by

invasion thereof from making the said draft on the time aforesaid, in that ease the commanding officer of the battalion of such counties shall make the draft as soon as the said hindrance shall be removed; saving in all cases to persons who may at the time of such draft be in the actual militia service of this State, all penalties for failing to appear as drafted soldiers during the continuance in the said militia service. Provided that such drafted soldier shall make his appearance at headquarters and deliver himself to a Continental officer within forty days after the expiration of his said service.

XVI. And be it further enacted by the authority aforesaid, that all persons liable to militia duty, and who have resided ten days in any part of this State before the day of drafting, shall be considered as liable to stand draft, and subject to the operations of this Act, and that any militia man who shall after the passing this Act, and before the day of drafting, absent himself, or remove with intent to evade the operations of this Act, shall be held and deemed a Continental soldier for twelve months from the day he may be taken thereafter, and the real and personal estates of all such persons shall be liable to be sold by the colonel of the county, or so much thereof as will be sufficient to procure a Continental soldier for the term of twelve months, in the room and stead of such person so removing; and that any draft, volunteer, substitute, or other soldier, under this Act, deserting or failing to appear when called on, shall be held and deemed a Continental soldier during the war. Provided, that refugees from Georgia and South Carolina shall not be considered as within the meaning of this Act.

XVII. And be it further enacted, by the authority aforesaid, that James Coor and William Pasteur be appointed commissioners to print, or cause to be printed or written, three thousand five hundred certificates of seven thousand five hundred dollars each, of the following form, viz. 'State of North Carolina. This may certify that the bearer is intitled to seven thousand five hundred dollars, to be paid out of the public treasury of this State, with six per cent. interest at any time after the first day of March, in the year one thousand seven hundred and eighty two, agreeable to Act of Assembly. Given under my hand this —— day of —— one thousand seven hundred and eighty one.' And shall in the most frugal and expeditious manner deliver, or cause to be delivered, the said certificates to the several district treasurers on or before the first day of April next, in the proportions following, that is to say, to the Treasurer of the district of Newbern five hundred, Wilmington five hundred, Salisbury nine hundred, Hillsborough six hundred, Halifax five hundred, and the remaining five hundred of the said certificates to the Treasurer of the District of Edenton, taking receipts for the same: And the said Commissioners shall, previous to their entering on the printing or writing the same, take an oath not to print or write, or cause to be printed or written, any greater number of certificates than are hereby directed to be printed or written; and the treasurers of each district are required to attend in person, or otherwise, at the place of general rendezvous in their respective districts, and after signing the said certificates, to deliver one of them to each volunteer and draft who by virtue of this Act shall appear at such place of rendezvous, taking a receipt from each individual, for which trouble and expence the said treasurers shall be allowed in the settlement of their public accounts: And the Treasurer of the District of Newbern shall advance to the said Commissioners the sum of three thousand pounds out of the public treasury, to enable them, if necessary, to hire expresses, and pur-

chase paper, for the purpose of procuring and delivering the said certificates as directed by this act; for which sum the said Commissioners shall account with the board of auditors, who are hereby directed to allow them a reasonable compensation for their services and expences in performing the several duties required of them by this Act.

XVIII. And be it further enacted, by the authority aforesaid, that whosoever shall by printing, writing, engraving, or by any other way or means, pass or counterfeit or attempt to pass or counterfeit, any of the certificates by this Act directed to be granted, or any part, word or letter, name, emblem or device of the same, or shall make or construct any die, press, type, or other instrument, for imitating any of the said certificates, or any part, word, letter, name, emblem or device thereof, or shall alter or deface any of the said certificates with intent to change the value or denomination thereof, or shall knowingly pass or utter any counterfeit likeness of any of the said certificates, being thereof lawfully convicted by confession or verdict, or on arraignment or trial shall stand mute, or challenge peremptorily more than thirty five jurymen, every such person shall receive judgment of death, without benefit of clergy, and shall suffer as in case of felony.

CHAPTER III.

An Act for appointing District Auditors for the settlement of public Claims.

I. Whereas the claims against this State are too numerous to be settled by the present Board of Auditors in any reasonable time, and whereas it is necessary that the same should be immediately settled;

II. Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, that a Board of Auditors be constituted and appointed for each of the Districts of Newbern, Wilmington, Hillsborough, Halifax, Edenton, and two for the District of Salisbury, each board to consist of three members, to be respectively composed of the following persons, and a secretary: James Coor, Benjamin Exum, and John Hawks, Esquires, for the District of Newbern; Francis Lucas, Wm. Dixon, and Thomas Sewell, Esquires, for the District of Wilmington; Memucan Hunt, Ambrose Ramsay, and John Taylor, Esquires, for the District of Hillsborough; John Macon, Henry Montfort, and Goodwin Davis, Esquires, for the District of Halifax; Lawrence Baker, Edward Everigin, and Wm. Righton, Esquires, for the District of Edenton; Anthony Bledsaw, Ralph Humphreys, and Jesse Walton, Esquires, of one board, Matthew Lock, Benjamin Cleveland, and David Wilson, Esquires, for the other board of the district of Salisbury; and the Secretary of each board is to be appointed by it: And such auditors shall have, and are hereby vested each board in their respective districts, with full power and authority finally to settle and adjust all claims against the State for articles heretofore furnished or impressed for the use thereof, at the following prices, viz. For every pound of fresh beef one pound twelve shillings, three years old steers or barren or dry cows each four hundred and forty pounds, four years old steers five hundred and sixty pounds, five years old steers six hundred and forty pounds, six years old steers and upwards seven hundred and twenty pounds, salt beef per barrel eight hundred pounds, salt pork per barrel one thousand pounds, each good sheep one hundred pounds, wheat per bushel forty five pounds, flour per hundred weight one hundred and thirty five pounds, oats per bushel twenty four

LAWS OF NORTH CAROLINA, 1781.

At a General Assembly begun and held at Halifax on the eighteenth day of January, in the year of our Lord one thousand seven hundred and eighty one, and in the fifth year of the independence of the said State: Being the third session of the Assembly of 1780. *Abner Nash, Esq.*, Governor.

CHAPTER I.

An Act to regulate and establish a Militia in this State.

I. Whereas a well regulated militia is absolutely necessary for the defending and securing the liberties of a free State;

II. Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, that the militia of this State shall consist of all the effective men from sixteen to fifty years of age inclusive (except Quakers, Menonists, Dunkards, and Moravians) and shall be divided into six brigades, one in each of the districts of Edenton, Newbern, Wilmington, Halifax, Salisbury, and Hillsborough, each brigade to be commanded by a brigadier general; the militia of each county to be formed into one or more regiments, each under the command of a colonel, lieutenant colonel and two majors; every regiment shall be divided into companies of fifty rank and file at least, two sergeants, two corporals, one drummer and fifer, and each company to be under the command of a captain, lieutenant, and ensign; and that every company shall stand divided into four divisions, and serve according to the first, second, third, and fourth numbers, as they have heretofore been drawn and numbered under an Act, intituled, "An Act to establish a militia in this State." Provided nevertheless, that where any militia man in this State shall remove himself out of one company into another, he shall produce a certificate from the captain of the company from which he came, setting forth the division to which he belonged, and the duty he has performed in that division, and the captain of the company to which he came shall cause him to be enrolled in the division he stood in before his removal; and if any person so removing shall fail to produce such certificate, when thereto required by the captain of the company to which by his removal he shall or may belong, such captain shall cause the person so failing to be enrolled in the division then liable to be called into service, and shall serve accordingly.

III. And be it further enacted, that any militia man removing from any other State, and becoming an inhabitant or resident within the bounds of any captain's company within this State, it shall and may be lawful for such captain, and he is hereby required, within six days after the arrival of such militia man into his company, to enter him upon the muster roll of said company, and number and class him by lot; and such militia man so enrolled and classed, shall serve accordingly.

IV. And be it further enacted, by the authority aforesaid, that every captain shall, on or before the tenth day of April next, and once in every six months afterwards, return a muster roll of his company, divided and numbered as aforesaid, to the commanding officer of the regiment, under pain of forfeiting one thousand pounds for every default; and the commanding officer of each regiment shall make an exact return from such

list, within twenty days after receiving the same, to the brigadier general of the district, under pain of forfeiting two thousand pounds for every default.

V. And be it further enacted, by the authority aforesaid, that the commanding officer of every regiment shall once in every year, and oftener, if required, by the brigadier general of the district, order a general muster at the court house of their county, or such other place as is or may be appointed by law, under pain of forfeiting two thousand pounds for every default; and every captain shall muster and train his company, divided as before directed, once in every two months, and oftener if directed by the commanding officer of the regiment, under pain of forfeiting two hundred pounds for every default; and every soldier neglecting or refusing to attend the general muster shall forfeit the sum of one hundred pounds, and if at a private muster fifty pounds; to be recovered as herein directed.

VI. And be it further enacted, by the authority aforesaid, that the brigadiers general respectively shall return an exact roll of all the officers and soldiers of their brigades, distinguished into their proper companies and divisions, to the governor, once in every year, and oftener if required, under the penalty of five thousand pounds for every default.

VII. And be it further enacted, by the authority aforesaid, that each militia soldier shall be furnished with a good gun and shot bag, and powder horn or cartouch box, and havre sack; and every soldier neglecting to appear at any muster accoutred as above, shall forfeit for every such offence ten pounds, if at a general muster, and five pounds if at a private muster, unless he can make it appear they were not to be procured, to be recovered as other fines: And when any person shall appear to the field officer not possessed of sufficient property to afford such arms and accoutrements, the same shall be procured at the expence of the county, and given to such persons on muster days, or when ordered into service; which guns and accoutrements, after such service, shall be returned to the captain of the company, and by him carefully preserved for future occasions. And whenever the militia are called into service they shall be allowed as follows: One baggage waggon, or two carts, for the field officers of every regiment, two waggons, or four carts, for the captains and subalterns of each regiment, and two waggons, or four carts, to each company, if necessary, each waggon, with four horses, to be allowed one hundred pounds per day, and to be found forage and shoes for their horses; and where any waggon is taken or impressed into the public service, the owner of the said waggon finding a driver, who shall continue in service during the space of three months, unless sooner discharged, shall be considered as having served a tour of duty, and shall be intitled to the pay and rations of a militia soldier while in service; ammunition waggons at the discretion of the brigadier general, the same rations to men and officers as allowed to the continental army, to be supplied by commissaries appointed by the brigadier, one bell tent to each company, intrenching tools, six axes, and a sufficient number of camp kettles, to be furnished by the commanding officer of each regiment; and the pay of the men and officers as follows, viz. A Colonel per day forty pounds, a brigadier general per day one hundred pounds, lieutenant colonel thirty six pounds, a major thirty-six pounds, a captain twenty-eight pounds, a lieutenant twenty four pounds, a surgeon thirty six pounds, an adjutant twenty eight pounds, an ensign twenty pounds, a sergeant seventeen pounds, a corporal, drummer and fifer, fifteen pounds, a brigade quarter master captain's pay and rations, a deputy brigade quarter master lieutenant's pay and rations, each rank and file man thirteen pounds; and each brigadier to be allowed one baggage waggon.

VIII. And be it further enacted, by the authority aforesaid, that there shall be one quarter master to every brigade, who shall be appointed by the brigadier general, with power to appoint deputies; and every colonel or commanding officer of a battalion shall appoint a quarter master to attend the same, or any detachment thereof, when ordered into actual service, to continue only until such battalion or detachment shall join the brigade of which it shall be a part: And every quarter master so appointed shall keep a book, wherein shall be entered an exact copy of all certificates and receipts he may give for articles imprest or bought, and not paid for, and shall return on oath the said account, together with all expenditures, to the next Assembly, or to the board of auditors, within one month; and any quarter master failing therein, shall forfeit and pay the sum of two thousand pounds, to be recovered and applied as other fines in this act hereafter directed.

IX. And be it further enacted, by the authority aforesaid, that there shall be twenty five light horse men, and no more, from each regiment, to be arrayed in one or more companies when they shall have joined the brigade, at the discretion of the brigadier general; and that each and every light horse man shall provide himself with a horse sufficient for the service, and accoutrements, and shall have the same bounty as a foot soldier, and twenty pounds per day, together with forage and shoes for his horse: And a chaplain may be appointed by the brigadier general to each brigade, to be approved of by the field officers of each brigade; which chaplain shall have the same pay and rations as a colonel, and be allowed forage for his horse.

X. And be it further enacted, that no officer or soldier in the militia service shall be tried for any offence against the militia law, or the articles of war, except by a court martial composed of militia officers.

XI. And be it further enacted, that no brigade, regiment, or division of militia, shall be under the command of any but militia officers, except when such militia shall be ordered by the civil power to join the continental troops; in which case the continental officer of equal, and the militia officer of superior denomination, shall command.

XII. And be it further enacted, that such division as shall at any time be called into service, shall be formed into companies of not less than fifty rank and file, with a proportionable number of officers, sergeants, corporals, fifers and drummers; and all the officers of each regiment shall agree among themselves who shall command the men directed to march into actual service, but if they cannot agree, the commanding officer shall cause lots to be drawn, and the officer on whom such lot shall fall, shall command in their proper rank and department, and such draft of officers shall be previous to the draft of the soldiers; and if any officer shall resign prior to the draft of the militia soldiers aforesaid, such officer shall be placed in the division then liable to a draft; and if any officer on whom the lot of commanding as aforesaid may fall, should resign his command before the expiration of the service, such officer shall forfeit and pay the sum of ten thousand pounds to be applied and recovered as other fines are herein directed. Provided, that nothing herein contained shall extend, or be construed to extend, to bar any officer or officers to resign his or their office before any alarm or orders for raising men, without incurring any penalty by this act inflicted.

XIII. And be it further enacted, by the authority aforesaid, that whenever a draft shall be ordered, that the captain, or one of his superior officers, shall forward on the drafts detached from his company respectively

to the place of rendezvous, on the day appointed for the drafts to rendezvous, and deliver them to the officer attending to take charge of said men: and further, that each captain shall at the same time send forward all such delinquents as may be lurking within the limits of his command.

XIV. And be it further enacted, that any militia man hereafter drafted shall be obliged to serve, or find an able bodied man in his room. Provided, that the governor, the speakers of both houses of the assembly, justices of the superior courts of law, attorney general, quakers, moravians, menonists, and dunkards, and continental delegates, shall be exempted from a draft; and that justices of the peace, public secretary, members of the council of state, ministers of every denomination regularly called, and having the cure of souls, treasurer of the loan office, physicians, surgeons, continental post-masters and post-riders, shall not be obliged to attend general or private musters, but shall nevertheless be subject to a draft.

XV. And be it further enacted, that for all defaults at private musters, if the delinquent shall fail to appear at the next succeeding muster, and shew sufficient cause for such default, the captain shall issue his warrant to the sergeant for levying the above fines by distress on the delinquent's goods and chattels, and the fines so collected shall be applied towards procuring arms for such as have not sufficient property to procure such for themselves. Provided, that where any person shall fail to appear at any private muster, and the captain of the company may suspect such person of having an intention of removing himself out of the county before the next succeeding muster, in such case it shall and may be lawful for the captain to issue a citation against such defaulter, requiring him by a certain day, not exceeding ten from the date thereof, to appear and shew cause, if he can, why the fine should not be levied; and if he shall fail to appear, or appearing, to make sufficient excuse, he shall be subjected to the same proceedings as if he had failed to make excuse at the succeeding muster: And every person who shall think himself aggrieved may complain to the next court martial, and if the said court shall think he was unjustly fined, they shall order the money to be refunded, if paid, and if any security has been given, that the same be released; and if any person shall withdraw himself, or abscond from the company to which he belongs, after being lawfully drafted, or shall desert his colours when on actual service, such person shall be held and deemed a continental soldier during the war.

XVI. And be it further enacted, that there shall be a court martial held the day after every general muster, to be composed of one field officer and six captains or subalterns at least; which said court shall have full power to inquire into all abuses, neglects and omissions, as well by any officer or soldier, to hear and determine all appeals whatever, and to dispose of all fines for the use of the county; and the said court is hereby directed and required to keep a register of all their proceedings, and for that purpose to appoint a clerk, and allow him a reasonable salary out of the fines.

XVII. And be it further enacted, that the captain or commanding officer of each militia company within this State shall cause a court of inquiry to be held previous to any draft, which court shall consist of the three commissioned officers of the company, and two freeholders, chosen by a majority of the company; and they, or a majority of them, shall hear and determine all complaints respecting the age or inability of any person within their company. Provided nevertheless, if any person shall think himself aggrieved by the determination of the said court, he shall have

the right of appeal to the regimental court martial, he first giving bond and security to prosecute such appeal with effect.

XVIII. And be it further enacted, that if any soldier shall, during the time of any muster, insult or resist his commanding officer, or refuse his lawful commands, such soldier shall and may be taken into custody by order of the commanding officer, and shall pay such fine as his said officer shall assess, not exceeding the sum of two hundred pounds if at a private muster, or four hundred pounds if at a general muster. Provided nevertheless, that such offending soldier shall have the right of appealing to the succeeding court martial to be held for his county, he first giving bond and security, in double the sum assessed, to the commanding officer, that he shall well and truly prosecute the appeal with effect; and if the said offending soldier shall fail in his appeal, it shall and may be lawful for the said court martial to confirm such fine, with costs, at their discretion.

XIX. And be it further enacted, that if any soldier shall neglect or refuse to appear when drafted, or otherwise called into actual service, or fail to deliver an able bodied man in his room to the commanding officer of the county to which such drafted person may belong, and procure a certificate for the delivery of his substitute (which the commanding officer is hereby required to give) and if any person fail in the above, after having five days previous notice, or appearing refuses to march, it shall and may be lawful for the commanding officer of the regiment to which such delinquent belongs, and he is hereby required, immediately to hire a substitute in the room of such delinquent; and if the delinquent shall be possessed of property sufficient to discharge the hire of the substitute, the said commanding officer is hereby required to make public sale of the goods and chattels, lands and tenements, of the person failing, or so much of them as may be sufficient to discharge the hire of the said substitute, and accruing costs; and the said substitute, when procured, shall be subject to the same rules and discipline, and shall be obliged to serve the same time, that the person whose substitute he may be would have been, had he appeared and marched agreeable to this law; and in case no property can be found, the said delinquent shall be held and deemed a continental soldier for the space of twelve months; and any person taking said delinquent, and delivering him to any gaoler of the nearest district gaol, shall be intitled to receive from this State the same pay and allowance as is given for taking up a deserter from the continental service; and any person procuring such substitute to serve in his room, shall be exempt from that tour of duty, and shall not be again called into service until by rotation it shall again come to his turn. Provided nevertheless, that no apprentice, foreigner, British or Hessian deserter, Indian, negro slave, or any person liable to be called into service the next draft, shall be received as a substitute; and if the substitute shall desert before the tour expires, the person so hiring shall be liable to serve the residue of the tour, either personally or by another substitute, with the next draft.

XX. And be it further enacted, by the authority aforesaid, that all young men, on arriving at sixteen years of age, and being entered on the muster roll, shall not be subject to a draft, until the class most remote or distant in rotation from the class from which the first draft after such young man's being respectively entered on the muster roll as aforesaid, is to be made.

XXI. And be it further enacted, that if any officer or soldier, when in actual service, shall wilfully disobey the lawful commands of his superior or commanding officer, it shall and may be lawful for such his commanding officer to cause him to be arrested, if an officer, and if a soldier, held in

safe custody, until a court martial shall be held over such offender, the said court not to consist of less than one field officer, three captains, three lieutenants, and three ensigns, or a majority of them, from the regiment to which such officer or soldier shall belong; and such offender shall suffer such punishment as said court martial shall direct. Provided always, that if the offender shall be an officer, he shall not be subject to any corporal punishment, and whether an officer or soldier, he shall not be subject to the loss of life, limb, or member, unless for mutiny or desertion; in which case the offender shall suffer death, or such other punishment as the court martial shall judge proper to inflict.

XXII. And be it further enacted, that no officer or soldier going to, continuing at, or returning from any muster in any reasonable time, shall be liable to be arrested by any officer in any civil action or process whatever; any law, usage, or custom, to the contrary, notwithstanding.

XXIII. And be it further enacted, that in all cases where it shall be requisite to administer an oath relative to any military matters, any field officer or captain is hereby required to administer the same.

XXIV. And be it further enacted, that no officer or soldier of the militia or regulars in this State shall press any waggon, cart or horse, arms or other things, of any nature whatsoever, unless authorized thereto by warrants under the hands and seals of two justices of the peace (not being militia officers then in actual service) of the county where such press shall be necessary; and any officer or soldier before he shall press any thing as aforesaid, shall demand the same peaceably from the owner or possessor thereof, and in case of refusal, shall produce his warrant aforesaid before he proceeds to impress; and if the owner or possessor shall still refuse the thing demanded, it shall be lawful to impress the same; and every officer or soldier who shall offend against this Act, shall forfeit and pay two thousand pounds for every such offence to the person injured, or to any person who shall sue for the same, and shall also be liable to the action or actions of the party grieved, to be recovered before any jurisdiction having cognizance thereof: And every thing so pressed or obtained shall be valued by two freeholders on oath, and a certificate of the valuation given by such valuers to the owner or possessor from whom the same shall be pressed or obtained; and the officer or person receiving such articles shall give a receipt on the back of the certificate for the same, in order that if the same shall not be restored to the owner or possessor, he may be allowed such valuation by the public.

XXV. And be it further enacted, by the authority aforesaid, that if any person shall conceal any waggon, cart, horse or other thing, after being lawfully impressed, with intent thereby to deprive the public of the use thereof, every person so offending shall forfeit the thing so concealed, or the value thereof, to the use of the public.

XXVI. And be it further enacted, by the authority aforesaid, that when any brigade shall be ordered into actual service, the following rules and regulations shall be observed. One waggon master shall be appointed to every twelve waggons, and the commanding officer shall continue or discharge the same at his discretion, which waggon master, before he enters upon his duty, shall take an oath that he will faithfully execute the said office; and the commissaries shall every morning make a return to the waggon master of the provisions, which the waggon master having examined and compared, shall return signed and certified to the commanding officer; and the waggon master shall attend as his special duty to the arrangement of the waggons, taking care that every morning no more begin

to march than one for every ton of provision, except one, and the remainder shall be discharged, except otherwise ordered by the commanding officer, each waggon having first obtained a certificate from the waggon master, setting forth the weight carried, the number of days in service, the place where discharged, the forage due, and the distance to return; and for every twenty miles of such return each waggon shall be allowed one day's pay, and half the sum shall be allowed for such carts as shall be employed in the service; and every waggon master shall be allowed the pay and rations of a captain: Also that there be a paymaster appointed to each brigade, who shall attend to the same, and be allowed a major's pay and rations; and he shall produce as vouchers receipts from every officer and soldier who shall appear on the muster roll of the brigade to which he belongs, for such sums as he shall pay away.

XXVII. And be it further enacted, by the authority aforesaid, that when any militia man shall hereafter be called into actual service, he shall not be compelled to serve more than three months from the time of his arrival at head quarters, or joining any division or post, by order of the commanding officer then in the field, at any one time; and in case the commanding officer shall deem it necessary to discharge the militia before their having performed three months service, the time such militia has served shall nevertheless be considered a tour of duty, and every militia man being so discharged, shall not be again called into service until it comes to his turn by rotation.

XXVIII. And be it further enacted, that the divisions made for drafting the militia in the several counties in this State, according to a resolve of Congress, passed at Halifax in May, one thousand seven hundred and seventy six, shall continue; and the persons who have in pursuance thereof been drafted, or voluntarily served a tour of two months or upwards in the militia service of this State at any one time, shall not be again drafted or called into service until, according to the order of the said division, it shall in rotation come to their turn; any thing in this Act contained to the contrary notwithstanding.

XXIX. And be it further enacted, that if any militia officer shall fail or neglect to call his regiment, company or corps, together, or to exercise, discipline, and train the same, when assembled, in manner as by this Act is directed, such officer so failing or neglecting as aforesaid shall forfeit and pay as follows: A colonel commandant the sum of one thousand pounds, a lieutenant colonel one thousand pounds, a major one thousand pounds, a captain five hundred pounds, a lieutenant three hundred pounds, and an ensign the sum of two hundred pounds; which several penalties and forfeitures may be sued for and recovered by action of debt, bill or plaint, before any jurisdiction having cognizance thereof, with costs; one moiety whereof shall be paid to the brigadier general of the district, to be applied towards purchasing arms and other warlike stores for the use of the county where the forfeiture shall be, and the other half to the person who shall sue for the same.

XXX. And be it further enacted, that every militia officer, before he enters upon the execution of his office, shall take the oath appointed for the qualification of public officers, and also the following oath, viz.

I, A. B., do solemnly swear, that I will execute the office of ——— to the best of my skill and abilities, without favour, affection, or partiality, and according to law. So help me God.

XXXI. And be it further enacted by the authority aforesaid, that where any invasion or insurrection shall happen within this State, that the

nearest militia officer shall give immediate notice thereof to the commanding officer of the county, who shall communicate the same as soon as may be to the brigadier general of the district, who shall convey the same to the Governor or commander in chief; and in the mean time every such officer shall use his utmost endeavours to collect a force sufficient to repel the enemy, or suppress the insurrection; and every officer failing herein shall forfeit and pay the sum of two thousand pounds, to be recovered and applied in the same manner as other fines by this Act inflicted, and be put in the ranks on the division next liable to be called into service; and every soldier refusing in such case to appear and march for the repelling the enemy when called upon by his immediate commanding officer, shall forfeit the sum of one thousand pounds; and if he has not property whereon the same may be levied, then, and in that case, he shall be held and deemed a continental soldier for the space of three months.

XXXII. And be it further enacted, that every sergeant, for levying any fine for not attending at a general or private muster, and for not appearing properly equipped, shall have and receive the following fees, viz. For non-attendance four pounds, for not being equipped two pounds, and such further allowance as the court martial may deem reasonable, to be paid out of the said fines: And when any apprentice, servant or minor, shall absent himself from militia duties, he shall be subject to the penalties by this Act directed for offences of the same nature; and if by this Act such offences are made subject to a fine or fines, such fine or fines shall be levied by distress upon the effects of the master or mistress of such servant or apprentice, or upon the effects of the parent of such minor, or of his guardian, in case he shall be an orphan.

XXXIII. And be it further enacted, by the authority aforesaid, that when the militia of this State shall be ordered into service, the commanding officer shall receive a tent for every six men under his command from the commissary of stores; and after the expiration of such service, the commanding officer shall return the tents, together with all pots, camp kettles, axes and other tools, to the colonels of their respective counties, where all such articles shall be carefully preserved by him for further occasions.

XXXIV. And be it further enacted, that any provision waggon hereafter entered into public service shall carry one ton weight each, and a cart half that quantity, or if less, shall be paid according to the weight they carry, in case they fail through inability; and where any baggage waggon is found to have less than fifteen hundred weight, or a cart half that quantity, it shall be lawful for the waggon master of the brigade to which such waggon or cart may belong, and he is hereby required, to put as much provision into such waggon or cart as will make up the above weight; and no waggon master shall give a certificate for the service of any waggon or cart, until the time of entry into actual service be proven on oath, except the time is known to the waggon master, and no certificate shall be given for more than two days previous to entering into actual service; and if any waggon master shall offend herein, he shall be liable to a prosecution for the breach of his oath, and shall be further liable to pay a fine of two thousand pounds, to be recovered and applied as other fines in this Act are directed.

XXXV. And be it further enacted, by the authority aforesaid, that where any complaint shall be made against any officer of the militia, the commanding officer, if the complaint be not against himself, if so, the next officer in command, shall cause a court martial to be called, which shall consist of one or more of the field officers, and at least the majority of

the captains of the regiment, who shall hear the charges and all allegations made against any officer or officers, provided such be made upon oath, and a notice of ten days at least given to the party complained against; and if such complaint shall appear to be well founded, and to warrant a removal of such officer, the said court martial shall and may sentence such person accordingly, and at the same time recommend a proper person to succeed such officer: The president of the court shall make return of the said proceedings to the brigadier, and if the same be approved of by him, then the commanding officer of the county shall proceed to procure a commission from the Governor for such person so recommended.

XXXVI. And be it further enacted, by the authority aforesaid, that every captain who shall go on actual service shall give a receipt to the colonel of his county, or the quarter master, for all arms and other articles furnished his company going into actual service; in case such articles are not returned, the captain shall be accountable for the same, or the value thereof, unavoidable accidents excepted.

XXXVII. And be it further enacted, by the authority aforesaid, that the captain or commanding officer of each company shall make a return of all delinquents that he may know to be lurking within the limits of his command to the colonel or commanding officer of his county, who shall immediately proceed against them according to law; and every officer who shall refuse or neglect to do the duties by this Act required, shall for every such neglect or refusal forfeit and pay the sum of one thousand pounds; to be recovered by action of debt, before any jurisdiction having cognizance thereof, to be applied as other fines by this Act are directed.

XXXVIII. And be it enacted, by the authority aforesaid, that any sergeant to whom a warrant shall be directed by his colonel or commanding officer, who shall fail or neglect to execute the same, shall forfeit and pay the sum of one hundred pounds, to be recovered and applied as other fines by this Act directed.

XXXIX. And be it further enacted, that if any number of men not exceeding thirty, or less than fifteen, shall form themselves into a company of horse, accoutring each and every man thereof with a gun, sword, and cartouch box, under the command of a captain, lieutenant, and cornet, it shall and may be lawful for such company, first signifying the same to the colonel of the county to which they belong, at the same time recommending the officers for the said company, to obtain from the Governor, to whom the colonel commandant of the county in which they reside is hereby required to signify the same, commissions for the said recommended officers, and thenceforth, as long as the said company may continue, shall be exempt from all foot service whatsoever; and when on service the captain shall have and receive thirty six pounds per day, lieutenant twenty eight pounds, and cornet twenty four pounds. Provided nevertheless, that the said company shall be as much subject to the command and orders of the colonel of the regiment to which they may belong, as any company of foot within the same.

XI. Whereas the Court House in Rowan County is situated upwards of forty miles from the northwest extremity of the said County, which renders it very inconvenient and disadvantageous to the inhabitants of that part of said County to attend at general musters: For remedy whereof, Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, that from and after the passing of this Act, it shall and may be lawful for commanding officers of said County, whenever it shall be found necessary to hold a general muster,

to order the district of the following captains to meet at Thomas Allison's, senior, plantation, Fourth Creek, viz. David Crawford, D. Caldwell, Patrick Morrison, James Furviance, Galbreath Falls, Jacob Nichols, Samuel Reed.

XLI. And be it further enacted, that it shall not be lawful for the commanding officer of said County to order the abovesaid districts to meet at the Court House of said County, unless it may be absolutely necessary to call the whole regiment together.

XLII. And be it further enacted, that it shall and may be lawful for the commanding officer of said county, when he orders a general muster of said district, to order one or more of the field officers of the said County to attend the same, and there hold a court martial to try and determine all matters and things, in as full and ample manner as any other regimental court martial in this State.

XLIII. And be it further enacted, that every former act or acts, which come within the meaning of this Act, shall be, and the same are hereby declared to be repealed and made void. Provided nevertheless, that all penalties for offences against the late militia law shall apply, remain, and be recoverable, in the same manner as if this act had never been made.

CHAPTER II.

An Act to reduce the six Continental Battalions belonging to this State to four, to compleat the said four Battalions, and for other purposes therein mentioned.

I. Whereas the honourable the Congress have resolved that the Continental Battalions belonging to this State shall be reduced to four, and have requested that the said battalions be immediately compleated; and as it has been found impracticable to fill up the same by the common mode of recruiting, and the pressing necessity for their being immediately compleated being evident, recourse must be had to other methods for effecting the same:

II. Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, that the said six battalions be, and they are hereby reduced to four.

III. And be it further enacted, by the authority aforesaid, that two thousand seven hundred and twenty four men shall be raised from the militia of this State to compleat the said battalions, in the following manner: The colonel or commanding officer of each and every battalion is hereby directed to order the field officers and captains of his said battalion, or at some other convenient place, on or before the twentieth day of March next, and the field officers and captains shall then and there divide the said battalion, officers and men of every rank included (his excellency the Governor, Judges of the Superior Courts of Law, Continental Delegates, Attorney General, and Public Secretary, excepted) into classes of fifteen men, after deducting all such who, by themselves or substitutes, faithfully served for the space of nine months, agreeable to Act of Assembly passed at Newbern in May, one thousand seven hundred and seventy eight, and who shall produce their discharge, regularly and fairly obtained, to the commanding officer of the battalion to which they respectively belong, and all such as were captured and made prisoners when in the actual defence of the United States, and are now on parole, or prisoners with the enemy; provided that this Act shall not be construed

so as to exempt any persons who have served or hired substitutes under an Act passed at Smithfield in May, one thousand seven hundred and seventy nine, or any other Act not herein mentioned, such Acts not having exempted any person from military duty in cases of actual invasion or insurrection: And whereas it may happen that a number not sufficient to make a class may be left after dividing the battalions into classes of fifteen, then, and in that case, it shall be lawful for the said commissioned officers, field officers and captains, by lot, to determine what men shall be of the said number, and to which class each of them shall be added, therein to stand a draft, provided the class to which he may belong do not produce a volunteer on the day of the general muster: And the colonel or commanding officer of each battalion of militia shall within fifteen days after such meeting order a general muster at the place by law appointed, or other convenient place, and is hereby authorized there to offer a bounty of three thousand pounds to every able bodied man, over and above a bounty of three barrels of corn for his wife, and two for each of his children who shall be in his family, and shall be under ten years of age, such corn to be delivered annually to his wife or assignee, or her order, by the commissioner of the county wherein she may reside, or by some other person appointed for that purpose, for and during the term the said volunteer or draft may continue in service, and the commissioner shall be allowed for the same in the settlement of his public accounts; the said three thousand pounds to be paid either in money or certificates upon the public treasury, bearing an interest of six per cent. per annum till paid, and free from taxation, and shall be a tender in payment of public taxes, the sum for which such certificates may be granted to be payable to the person to whom they are granted, or his assigns, within twelve months after the inlistment, to every able bodied man who shall inlist, or be drafted in the said Continental Battalions for the space of twelve months; and the said volunteers shall be subject to the same rules and discipline, and have the same pay and rations, as the Continental troops belonging to this State, from the day of their being inlisted: And in case a sufficient number of volunteers do not then inlist, the commanding officer shall immediately order one man to be drafted from each of the classes which have failed to produce a volunteer; and each of the men so drafted shall be intitled to receive the same bounty, pay and rations as if they had inlisted, and shall be obliged to serve in the Continental Battalions of this State for the same term, and be subject to the same rules and discipline, as the said volunteer, or produce an able bodied substitute on the day, and at the place appointed by this law for the district rendezvous; which substitute on being approved of by the field officer delivering, and the Continental officer receiving him, shall be intitled to the bounty, pay and rations, and shall be obliged to serve for the same term, and be subject to the same rules and discipline, as the said drafted man would have been, had he not hired such substitute; all the taxable property within the district of each battalion, whose owners are neither in the Continental service or liable to be classed as by this Act directed, shall be subject to a tax of three pounds upon every hundred pounds value of the same (the property of orphans excepted) an exact list of the names of the owners of which property shall be returned by the respective captains and commanding officers of the companies of each battalion to the collectors and county treasurers aforesaid, on or before the twentieth day of April next.

IV. And be it further enacted, by the authority aforesaid, that the collectors of the pecuniary tax in the respective districts, collect and pay

into the hands of the county treasurers, all the tax payable by virtue of this Act, on or before the first day of October next; and any collector who shall fail to collect the aforesaid tax, or to pay the same to the treasurers of the respective counties, and the county treasurer neglecting to pay the same to the respective district treasurers, shall forfeit double their commissions.

V. And be it further enacted, by the authority aforesaid, that every person who shall voluntarily inlist himself into the Continental service during the war, shall be intitled to have and receive as a bounty the sum of two thousand pounds, to be paid in the same manner as the three thousand pounds herein before directed to be paid as a bounty to such persons as shall voluntarily inlist or be drafted into the Continental service for the space of twelve months, to be paid him on the day upon which he shall arrive at the place of general rendezvous appointed for the troops raised in the district wherein such person shall so inlist, and be intitled to the same clothing as the Continental soldiers now in the service of the United States are intitled to; and every person inlisting in the war as aforesaid, upon his producing a certificate of having so served from the colonel of the regiment to which he belonged, shall be intitled to have and receive, as a recompence for such service, one prime slave, or the value thereof, and six hundred and forty acres of land, under the same rules and restrictions as the additional bounty given to soldiers inlisting in the Continental service under the Act for that purpose passed the first session of the present General Assembly, that is to say, no disposition or transfer of lands or negroes by this Act allowed to drafts or volunteers, made by the said drafts or volunteers during the time of their service, shall be in any wise good, except where they shall transfer or dispose of the same by will; and in case any of the said drafts or volunteers shall die intestate before the expiration of the time of their inlistment, the said negroes and lands to which they are intitled respectively, shall go and descend to their legal representatives.

VI. And be it further enacted, by the authority aforesaid, that the men so raised shall rendezvous on or before the twenty fifth day of April next at the following places, to wit, those from the district of Salisbury at Salisbury, from the district of Hillsborough at Hillsborough, from the district of Edenton at Edenton, and Halifax at Halifax, from the district of Newbern at Smithfield, and Wilmington at Duplin Court House, unless otherwise ordered by the brigadier general of the respective districts; and in case any of the said volunteers and drafts should fail to appear at the day and place appointed for the district rendezvous, or at any time, place or places, that may hereafter be appointed by the commanding officer for the time being, they being considered by this law as Continental soldiers from the day of the drafts or inlistments, shall be treated as deserters by a court martial composed of Continental officers.

VII. And be it further enacted, by the authority aforesaid, that any volunteer or draft faithfully serving, either by himself or substitute, the aforesaid term, shall be exempted from all drafts whatever for twelve months from the date of his or his substitute's discharge, provided it be certified on the back of said discharge, by the commanding officer of the militia battalion to which such volunteer or draft belonged at the time of his entering the said service, that he has reason to believe the said volunteer or draft has faithfully served as aforesaid, and been legally discharged; and in case of the death of any of the said volunteers, drafts or substitutes,

when in the service of this State, their families shall be provided for in the same manner as during their service.

VIII. And be it further enacted, by the authority aforesaid, that if any person shall harbour, conceal or abet, any soldier deserting from the Continental army, the person so harbouring, concealing or abetting, such soldier, where the circumstances of such harbouring, concealing or abetting furnish a sufficient presumption that the person so harbouring knew him to be a deserter, on conviction before three justices of any county in this State, shall be deemed a Continental soldier during the war, and shall serve in one of the battalions belonging to this State, or deliver an able bodied substitute to the commanding officer of the militia battalion of the district wherein he resided at the time of his so harbouring, concealing or abetting, any Continental deserter as aforesaid, or to the commanding officer of the Continental battalion to which he may be turned over; and in case the person so harbouring, concealing or abetting, such soldier, and convicted as aforesaid, should not be sufficiently able bodied to serve as a soldier, and should neglect to deliver an able bodied substitute to the commanding officer of the militia battalion as aforesaid within ten days after such conviction, or being able bodied should abscond, or having joined the Continentals belonging to this States should desert, the commanding officer of the said militia battalion is hereby authorized and commanded to hire a substitute in the stead of the person not being able bodied, and neglecting to deliver a substitute as aforesaid, or being able bodied, and absconding or deserting, and to cause the hire and expence of such substitute to be levied by warrant under his hand and seal on the goods and chattels, lands and tenements, of the person so offending.

IX. And be it further enacted, by the authority aforesaid, that the captains shall return descriptive lists of the volunteers and drafts raised in and from the several classes apportioned to them to their colonel or commanding officer within two days after such draft, therein specifying the name, size, age, complexion, and occupation, of the men so raised, and also the name of the captain from whose company they were taken; and the said commanding officer shall make two fair copies of such descriptive lists, one of which, by him or one of his field officers, to be delivered with the men so raised, on or before the twenty fifth day of April next, at the district rendezvous, to the Continental officer, or other person appointed to receive and take charge of the said men, and shall take a receipt for the delivery of the men on the other, and shall then take a descriptive list, of all substitutes there offered by drafted men of the battalion to which he belongs, and approved by the persons appointed for that purpose; one fair copy of which list he is required to deliver with the said substitutes to the Continental officer, or other person appointed to receive and take charge of the said men, and shall take a receipt for the said substitutes, in like manner as for the said drafts; and one other fair copy of the descriptive list of such substitutes, together with receipts for the volunteers, drafts and substitutes as aforesaid, shall be returned to, if not taken by, the militia colonel or commanding officer of the battalion.

X. And be it further enacted, by the authority aforesaid, that the commanding officers of the battalions shall send a list of the volunteers, drafts and substitutes, to the brigadiers general of their respective districts, within fifteen days from the district rendezvous; and the brigadiers general shall, within one month from the receipt of such list, transmit copies thereof to his excellency the Governor for the time being.

XI. And be it further enacted, by the authority aforesaid, that each and every person who shall voluntarily enter or be drafted into the said service, or be received as a substitute by the persons appointed for the purposes aforesaid, shall be intitled to have and receive two pair of shoes, two pair of stockings, two shirts, two stocks, one pair of breeches, one pair of overalls, one waistcoat, one coat, one hunting shirt, one blanket, and one hat; which cloathing shall, if possible, be delivered to each volunteer, draft and substitute, on the day and place of the district rendezvous, or as soon after as they can be made up.

XII. And in order to procure the cloathing afore mentioned, Be it enacted, by the authority aforesaid, that every class shall furnish, provide and deliver, to the colonel or commanding officer of the battalion to which such class belongs, two pair of good strong shoes, one pair of good warm yarn or cotton stockings, one pair of good thread or cotton stockings, two good and strong linen shirts, two black leather stocks, one pair of good buckskin or good thick and strong woollen cloth breeches, one pair of good and strong linen overalls, one waistcoat of good thick and strong woollen cloth lined with linen, one coat of the same with the waistcoat lined with linen, with capes and cuffs of blue cloth of the same quality, one good and strong hunting shirt with a blue linen cape, one good and well made wool hat, for the volunteers, drafts or substitutes, of their own class, and in proportion to the assessment of their taxable property for the year one thousand seven hundred and eighty; and the colonel or commanding officer is hereby required to cause the said clothing to be appraised by two freeholders, and to give certificates to the persons furnishing the same, which shall be received in payment of taxes; and in case any class should fail to deliver the same to the colonel or commanding officer of the battalion to which the said class belongs within twenty days after the day of general muster of the battalion as aforesaid, the commanding officer is hereby authorized and commanded to appoint a proper person or persons to purchase said articles of cloathing, and by warrant under his hand and seal to levy the cost and expence attending the purchasing the same in due proportion to their taxable property aforesaid.

XIII. And be it further enacted, by the authority aforesaid, that the colonel or commanding officer who may attend at the district rendezvous take proper methods to have the cloathing at the said rendezvous, and see it delivered to the soldiers for whom it may be provided; and the County Commissioners are hereby required to deliver, by order of the commanding officer of the county battalion, to the soldiers raised as aforesaid, rations sufficient to serve them to the district rendezvous, allowing fifteen miles for a day's march.

XIV. And be it further enacted, by the authority aforesaid, that every militia officer employed in carrying this Act into execution, shall be allowed full pay and rations for every day of actual service: And each and every militia officer neglecting or refusing to do any or every of the unties by this Act required, shall forfeit a sum equal to three months pay, to be collected in the same manner as fines and forfeitures inflicted by the militia laws are collected; which fines and the money arising from such forfeitures shall be immediately paid to the county treasurer for the use of the county.

XV. And whereas it may happen that some counties of this State may be prevented by means of invasion from making the draft hereby directed to be made on the time aforesaid, Be it further enacted by the authority aforesaid, that if any of the counties of this State shall be prevented by

invasion thereof from making the said draft on the time aforesaid, in that case the commanding officer of the battalion of such counties shall make the draft as soon as the said hindrance shall be removed; saving in all cases to persons who may at the time of such draft be in the actual militia service of this State, all penalties for failing to appear as drafted soldiers during the continuance in the said militia service. Provided that such drafted soldier shall make his appearance at headquarters and deliver himself to a Continental officer within forty days after the expiration of his said service.

XVI. And be it further enacted by the authority aforesaid, that all persons liable to militia duty, and who have resided ten days in any part of this State before the day of drafting, shall be considered as liable to stand draft, and subject to the operations of this Act, and that any militia man who shall after the passing this Act, and before the day of drafting, absent himself, or remove with intent to evade the operations of this Act, shall be held and deemed a Continental soldier for twelve months from the day he may be taken thereafter, and the real and personal estates of all such persons shall be liable to be sold by the colonel of the county, or so much thereof as will be sufficient to procure a Continental soldier for the term of twelve months, in the room and stead of such person so removing; and that any draft, volunteer, substitute, or other soldier, under this Act, deserting or failing to appear when called on, shall be held and deemed a Continental soldier during the war. Provided, that refugees from Georgia and South Carolina shall not be considered as within the meaning of this Act.

XVII. And be it further enacted, by the authority aforesaid, that James Coor and William Pasteur be appointed commissioners to print, or cause to be printed or written, three thousand five hundred certificates of seven thousand five hundred dollars each, of the following form, viz. 'State of North Carolina. This may certify that the bearer is intitled to seven thousand five hundred dollars, to be paid out of the public treasury of this State, with six per cent. interest at any time after the first day of March, in the year one thousand seven hundred and eighty two, agreeable to Act of Assembly. Given under my hand this ——— day of ——— one thousand seven hundred and eighty one.' And shall in the most frugal and expeditious manner deliver, or cause to be delivered, the said certificates to the several district treasurers on or before the first day of April next, in the proportions following, that is to say, to the Treasurer of the district of Newbern five hundred, Wilmington five hundred, Salisbury nine hundred, Hillsborough six hundred, Halifax five hundred, and the remaining five hundred of the said certificates to the Treasurer of the District of Edenton, taking receipts for the same: And the said Commissioners shall, previous to their entering on the printing or writing the same, take an oath not to print or write, or cause to be printed or written, any greater number of certificates than are hereby directed to be printed or written; and the treasurers of each district are required to attend in person, or otherwise, at the place of general rendezvous in their respective districts, and after signing the said certificates, to deliver one of them to each volunteer and draft who by virtue of this Act shall appear at such place of rendezvous, taking a receipt from each individual, for which trouble and expence the said treasurers shall be allowed in the settlement of their public accounts: And the Treasurer of the District of Newbern shall advance to the said Commissioners the sum of three thousand pounds out of the public treasury, to enable them, if necessary, to hire expresses, and pur-

chase paper, for the purpose of procuring and delivering the said certificates as directed by this act; for which sum the said Commissioners shall account with the board of auditors, who are hereby directed to allow them a reasonable compensation for their services and expences in performing the several duties required of them by this Act.

XVIII. And be it further enacted, by the authority aforesaid, that whosoever shall by printing, writing, engraving, or by any other way or means, pass or counterfeit or attempt to pass or counterfeit, any of the certificates by this Act directed to be granted, or any part, word or letter, name, emblem or device of the same, or shall make or construct any die, press, type, or other instrument, for imitating any of the said certificates, or any part, word, letter, name, emblem or device thereof, or shall alter or deface any of the said certificates with intent to change the value or denomination thereof, or shall knowingly pass or utter any counterfeit likeness of any of the said certificates, being thereof lawfully convicted by confession or verdict, or on arraignment or trial shall stand mute, or challenge peremptorily more than thirty five jurymen, every such person shall receive judgment of death, without benefit of clergy, and shall suffer as in case of felony.

CHAPTER III.

An Act for appointing District Auditors for the settlement of public Claims.

I. Whereas the claims against this State are too numerous to be settled by the present Board of Auditors in any reasonable time, and whereas it is necessary that the same should be immediately settled;

II. Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, that a Board of Auditors be constituted and appointed for each of the Districts of Newbern, Wilmington, Hillsborough, Halifax, Edenton, and two for the District of Salisbury, each board to consist of three members, to be respectively composed of the following persons, and a secretary: James Coor, Benjamin Exum, and John Hawks, Esquires, for the District of Newbern; Francis Lucas, Wm. Dixon, and Thomas Sewell, Esquires, for the District of Wilmington; Memucan Hunt, Ambrose Ramsay, and John Taylor, Esquires, for the District of Hillsborough; John Macon, Henry Montfort, and Goodwin Davis, Esquires, for the District of Halifax; Lawrence Baker, Edward Everigin, and Wm. Righton, Esquires, for the District of Edenton; Anthony Bledsaw, Ralph Humphreys, and Jesse Walton, Esquires, of one board, Matthew Lock, Benjamin Cleveland, and David Wilson, Esquires, for the other board of the district of Salisbury; and the Secretary of each board is to be appointed by it: And such auditors shall have, and are hereby vested each board in their respective districts, with full power and authority finally to settle and adjust all claims against the State for articles heretofore furnished or impressed for the use thereof, at the following prices, viz. For every pound of fresh beef one pound twelve shillings, three years old steers or barren or dry cows each four hundred and forty pounds, four years old steers five hundred and sixty pounds, five years old steers six hundred and forty pounds, six years old steers and upwards seven hundred and twenty pounds, salt beef per barrel eight hundred pounds, salt pork per barrel one thousand pounds, each good sheep one hundred pounds, wheat per bushel forty five pounds, flour per hundred weight one hundred and thirty five pounds, oats per bushel twenty four

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the other good citizens of this State are liable and intitled to; and the said colonels and justices are respectively required to make return of all such paroles and other papers, together with the names and descriptions of the persons to whom they have granted certificates as aforesaid, to the county court which may first happen after the aforesaid first day or October next.

III. And be it further enacted, that all such persons who have voluntarily applied for, and taken paroles as aforesaid, who shall not on or before the said first day of October next renew their allegiance and surrender up all such original paroles and other papers as aforesaid, and procure a certificate thereof, shall thenceforward be deemed Continental soldiers, and shall be liable for such neglect to serve twelve months, by themselves or substitutes, in the Continental army, from the time they may be delivered into the hands of any Continental officer, intitled nevertheless to the same pay and allowance in every respect as other Continental soldiers are intitled to; and every subject of this State who shall after the said first day of October aforesaid take up and deliver any such delinquent parole man to any Continental officer, such person shall, on producing the officer's receipt, be freed and exempted from one tour of militia duty. Provided, that nothing in the foregoing Act shall in any wise be construed so as to exempt or excuse any person who hath voluntarily supplied the enemy with provisions, or hath taken arms against the State, from the pains and penalties inflicted on persons guilty of treason or misprision of treason, agreeable to law.

IV. And be it further enacted, that all persons who shall hereafter voluntarily go over to, or throw themselves in the way of the enemy, and take paroles or protection from them, shall be deemed guilty of misprision of treason, and be prosecuted accordingly. Provided nevertheless, that this Act shall not be construed so as to excuse any officer either civil or military, or other person holding any office of profit or trust in this State, who hath voluntarily gone over to, or fallen into the hands of the British, and hath taken paroles or protections.

V. And be it further enacted, that all such officers, both civil and military, who have taken protections or paroles from the enemy, be suspended from their respective offices until the end of the next General Assembly, and that the sheriffs or coroners of the respective counties cite such officers within their several counties to make their personal appearance before the next General Assembly, to shew cause, if any they can, why they shall not be dismissed from their several offices.

CHAPTER V.

[An Act to compel the Counties which have not furnished their quota of Continental troops, as required by a late Act of the General Assembly of this State, to furnish the same.

I. Whereas many of the counties of this State have not furnished their quota of Continental troops, as ordered by an Act of the General Assembly of this State, intituled, An Act to reduce the six Continental Battalions belonging to this State to four, to complete the said four battalions, and for other purposes; and whereas it is necessary that the said quota of Continental troops should be immediately raised, and employed in the defence of the State;

II. Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, that the colonel or commanding officer of every militia batallion in this State which hath not already been classed, or being classed, have not furnished their proportion of continental troops as aforesaid, shall within six weeks after passing this Act proceed to class, if not already classed, his battallion, and in either case to draft, if drafting should be necessary, from such classes their full quota of troops, in the manner directed by the aforesaid Act; and where any class of any batallion already made have not furnished a volunteer or draft as the said law directs, the colonel or commanding officer shall within the time aforesaid, if volunteers do not offer, make a draft from each of the said classes agreeable to the aforesaid Act; and that this Act shall not be construed so as to oblige any class that have drafted, or provided a volunteer agreeable to law, to furnish again.

III. And be it further enacted, that the officer who shall cause the said continental troops to be drafted as aforesaid, shall under the penalties of the before recited Act, cause the same to be marched as soon as may be to such place as is by the said appointed Act for the district rendezvous of the troops to be raised from his batallion, or to such other place as shall be appointed by the Brigadier General Sumner, or the commanding officer in the Southern army.

IV. And be it further enacted, that the men so drafted shall serve twelve months after their arrival at the place of rendezvous afore mentioned, and shall be subject to the same rules, regulations and penalties, and intitled to the same emoluments, as the continental troops already raised in virtue of the above recited Act. Provided nevertheless, that any county or counties who have furnished any number of men since the sitting of the last Assembly for the southern army, to serve ten months under the command of General Sumpter, shall be considered as having furnished one man in the Continental draft, for every three men in the said service from said county. Provided also, that this Act shall not be construed so as to excuse any county or batallion from furnishing their quota in any future draft, under similar circumstances.

CHAPTER VI.

An Act for the more speedy trial of all persons charged with treason or misprison of treason against this State, or the United States, and other purposes.

I. Whereas experience has shewn that the delay attending the trials of persons charged with either of the above recited crimes in the several superior courts of this State, is attended with very pernicious consequences to this State, whilst it is in a state of warfare: For remedy whereof,

II. Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, that it shall and may be lawful for the governor for the time being, and he is hereby directed, to issue his commission of Oyer and Terminer and General Gaol delivery, directed to any three persons in each district in this State whom he shall deem as best qualified to act as judges, in any court to be held by virtue of this Act in such district, for the trial of persons accused of treason or misprison of treason against this State; and all such persons so appointed shall have full power and authority to hold courts as occasion may require

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the commissioners aforesaid, or any three of them, shall appoint such officers of marines as may be necessary for each vessel and galley; but if the commissioners shall not be able to enlist a sufficient number of volunteers, they are to apply to the brigadier general of the district, who is hereby required to furnish out of the district drafts as many men as may be demanded by the said commissioners for completing the crews of the said vessels and galleys; and those who faithfully serve on board the said vessels or galleys, whether volunteers or drafted men, for the term of three months, shall be considered as having performed a tour of duty in the militia service, and be intitled to receive the same pay as the militia in actual service.

VII. And be it enacted, by the authority aforesaid, that the commissioners aforesaid, or any three of them, are hereby empowered to apply to his excellency, the Governor, who is hereby impowered to grant them warrants upon the treasurers for such sums as shall be necessary for the payment of the officers and seamen belonging to the said vessels and galleys, and other necessary expenditures, for which they are to account.

VIII. And be it further enacted, by the authority aforesaid, that the said commissioners, or any three of them, are impowered to apply to the county commissioners for such provisions as may be wanted for victualling said vessels and galleys; which provisions the county commissioners are hereby required to supply; but if a sufficiency of provisions cannot be procured by them from the county commissioners, the commissioners aforesaid, or any three of them, are hereby impowered to buy or impress the provisions required.

IX. And be it enacted, by the authority aforesaid, that the commissioners aforesaid, or any three of them, are hereby impowered to order the said vessels and galleys to cruise either in concert or separately, at such places within Occacock bar, as to them shall seem most expedient and necessary for the public benefit; and the commissioners of both districts shall correspond and inform each other whenever the enemy may appear, that the whole force if necessary may be collected to oppose them; and whenever it may be necessary, the said commissioners are to appoint one of the captains to act as commodore, when the rest must obey during his appointment. Provided, nevertheless, that the whole of this armament be, and it is hereby made subject to the orders and commands of the supreme executive powers and to the orders, commands, and controul, of the General Assembly of this State.

X. And be it enacted, by the authority aforesaid, that the said commissioners shall keep just and clear accounts of all sums of money which they receive, of their expences and expenditures, of all articles bought or impressed by them, and of all certificates granted by them and they shall be allowed, upon the adjustment and settlement of their accounts, a reasonable compensation by the General Assembly, for their trouble in performing the services hereinbefore directed.

CHAPTER X.

An Act for drafting the Militia to reinforce the Southern Army.

I. Whereas it is necessary for the support of this and the neighboring States, that a force be immediately embodied and marched to the seasonable relief of the Southern army under the command of the honourable Major General Greene;

II. Be it therefore enacted, by the General Assembly of the State of

288. N. C.—*Assembly, Wake County; Recs. Clark, Vol. 24, 1905, Ch. X; Act, June 1781, pp. 404-405.*

North Carolina, and it is hereby enacted by the authority of the same, that the Governor do immediately issue orders to the commanding officer of the district of Salisbury to forward on, without loss of time, the militia ready drafted to the assistance of General Greene, and also to make a further draft, so as to compleat the number from that district to one thousand men, including those already drafted, to be drawn from each county in proportion to the number it contains, including those already drafted from each county respectively.

III. And be it further enacted, by the authority aforesaid, that the Governor immediately issue orders to the brigadier general for the district of Hillsborough to draft five hundred men, to be forwarded on to re-inforce the Southern army, to be armed and equipped in the best manner from their respective counties.

IV. And be it further enacted, that the said reinforcement shall march to such parts or places in this State, and in the State of South Carolina, or Virginia, as the commander in chief of the Southern army shall direct, and such reinforcement shall be under the same rules and discipline as the continental troops after they shall have joined the army which they may be ordered to reinforce, and shall receive the same pay allowed to the militia of this State in actual service. Provided always, that for any offence, every officer and soldier of the said reinforcement shall be tried by a court martial composed of their own officers, and no other.

V. And be it further enacted, that the said reinforcement shall not be compelled to serve more than three months from the time of their arrival at headquarters, or joining any division or post by order of the commander in chief of the Southern army, or crossing the limits of this State, whichever may first happen.

VI. And be it further enacted, that the Governor, by and with the advice of the council of State, is hereby impowered to order out any number of militia that he may think proper and necessary, not exceeding four thousand for the use of the Southern department; and further, that he be impowered, with the advice of the council, to dispose of the troops already raised, or ordered to be raised in the districts of Halifax, Edenton, Newbern, and Wilmington, in such manner as he may think proper for the defence of this State, or the Southern department; provided such troops shall not be compelled to serve a longer time than three months, agreeable to the militia law.

CHAPTER XI.

An Act for vesting a power in the honourable the Continental Congress to Levy a Duty of five per cent. upon all Foreign Merchandize, except such articles as are therein excepted, and for other purposes.

I. Whereas by a resolve the honourable the continental Congress bearing date the third of February, one thousand seven hundred and eighty-one, and by sundry other resolves, it is recommended to the several States to vest a power in Congress of raising a revenue for the purpose of discharging the principal and interest of the debts already contracted, or which may be contracted during the war on the faith of the United States, and the necessity of complying with this recommendation being evident:

II. Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, that the honourable the continental Congress be, and are hereby fully impowered to levy,

LAWS OF NORTH CAROLINA, 1781.

At a General Assembly begun and held in Wake County on the _____ day of June, in the year of our Lord one thousand seven hundred and eighty one, and in the sixth year of the independence of the said state: Being the first session of this Assembly. *Thomas Burke, Esq.*, Governor.

CHAPTER I.

See in general

An Act for raising Troops out of the Militia of this State for the defence thereof, and for other purposes.

I. Whereas it is necessary to raise troops for the better security and defence of this State, and to prevent as far as may be the distresses occasioned by the frequent drafts from the battalions of militia;

II. Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, that the colonel or commanding officer of each and every battalion within this State shall, on or before the second Monday in August next, order the field officers and captains of his battalion to meet at the place by law appointed for the general musters of his battalion, or at some other convenient place; and the field officers and captains then and there present shall divide the said battalions, officers and men of every rank included (his excellency the governor, judges of the superior courts of law, attorney general, and continental delegates, excepted) into classes of forty men each, after deducting all such who by themselves or substitutes faithfully served for the space of nine months, agreeable to an act of assembly passed at New Bern in May, 1778, and all such as have been captured and made prisoners when in actual service of this or the United States, and are now on parole, and all such as have been lately drafted or have voluntarily inlisted into the continental service for the space of twelve months, and have hired substitutes: And whereas it may happen that a number not sufficient to make a class, after dividing the battalions into classes of forty men each, may be left, then, and in that case, it shall and may be lawful for the said commissioned officers, by lot, to determine to which class each of them shall be added, there to stand a draft; and the commanding officer of the battalion shall within twenty days thereafter order a general muster of his said battalion, and in case the respective classes do not furnish each a volunteer, he shall proceed to draft one man from each of the said classes so failing.

III. And be it further enacted by the authority aforesaid, that the field officers and captains shall class the men in such manner, that each class may be of equal value, as near as may be agreeable to the assessment of their taxable property.

IV. And be it further enacted, that the said volunteers, drafted men, or substitutes, who shall not be in actual service, shall appear at the place of rendezvous appointed by the commanding officer of the county on or before the twentieth day of September, under the pains and penalties herein after mentioned; but if any of the said drafted men should be in actual

service at that time, they shall be allowed forty days after their discharge to appear at the place of rendezvous, or to join their regiment.

V. And be it further enacted, by the authority aforesaid, that the troops raised by virtue of this act shall serve for the term of twelve months, from the time of their general rendezvous at such place or places in this State as may be appointed by his excellency the Governor; and the said troops shall be officered in the following manner: one lieutenant colonel commandant, two majors, eight captains, eight lieutenants, and eight ensigns, and be arranged and organized in the same manner as the battalions of the continental army, the whole to be under the supreme command of the Governor for the time being. Provided, that they shall not be marched out of this State except for the better defence thereof; upon the immediate approach of the enemy, or in pursuit of the enemy on a retreat therefrom.

VI. And be it further enacted by the authority aforesaid, that any person harbouring, concealing or abetting, any soldier deserting from the troops raised by virtue of this act, knowing him to be such, shall on conviction thereof before two justices of the peace of any county of this State, be deemed a continental soldier during the war.

VII. And be it further enacted, by the authority aforesaid, that the commanding officer of each battalion shall make out two exact lists of all the soldiers drafted, or procured by voluntary enlistments, out of his battalion, specifying the names, age, size, complexion, colour of hair and eyes, of each man, also where born, and the names of the captains from whose company taken; one of which by him, or one of his field officers, shall be delivered with the men so raised on or before the eleventh day of October next, at such place of rendezvous in this State as may be appointed by his excellency the Governor, commander of the said troops, or other person appointed to receive them, and also take a receipt for the delivery of the men on the other.

VIII. And be it further enacted, by the authority aforesaid, that each and every class shall furnish and deliver unto the commanding officer of the battalion to which they belong, one blanket, two pairs of stockings, two pair of shoes, two shirts, two leather stocks, one pair of buckskin or thick cloth breeches, one pair of linen overalls, one waistcoat lined, one coat of thick woollen cloth lined with linen, with cape and cuffs of white cloth, one strong hunting shirt, one good woollen or fur hat of a middle size, and also five yards of strong linen, for tents, for the volunteers and drafts of their own class, and in proportion to their taxable property; and the commanding officer is hereby required to cause the said cloathing to be appraised by two freeholders, and give certificates to the persons furnishing the same, which shall, after being allowed by the auditors of the district, and a certificate of such allowance obtained from them as in other cases of allowances, be received in payment of public taxes: Any class failing to deliver the same to the commanding officer of the battalion to which they belong on or before the day of general rendezvous, that then the field officers and captains shall appoint a person, whose duty shall be to furnish such articles as the law directs his said class to furnish; and each of the classes who fail to furnish their proportion of cloathing, the said person shall have full power and authority to seize and sell such part of the property of such person neglecting as shall be sufficient to defray the proportion of such person, agreeable to his assessment in the year 1781: And in case such person so appointed as aforesaid shall fail or neglect to comply with his duty, then the colonel or commanding officer shall by

warrant seize and sell so much of the property of such person appointed as aforesaid as shall be sufficient to furnish such volunteer, draft or substitute, with such articles as the law directs.

IX. And be it further enacted, by the authority aforesaid, that no substitute for any volunteer or draft shall be received, unless approved of by the officer, or other person appointed to receive the same.

X. And be it further enacted, that officers and soldiers raised by virtue of this act shall in all cases whatsoever be subject to the same rules and discipline, and have the same pay and rations, as the officers and soldiers raised by virtue of the continental congress, during the time they shall continue in service.

XI. And be it further enacted, that all the taxable property within the district of each battalion, whose owners are neither in continental service, or liable to be classed as by this act directed, shall be subject to a tax of three pounds upon every hundred pounds value of their taxable property, agreeable to their assessment for the year 1781 (the property of widows and orphans, and also the property of all quakers, moravians, menonists and dunkards, whose owners are liable to a threefold tax, excepted) an exact list of the owners of which property shall be returned by the respective captains of each battalion to the collectors of public taxes on or before the first day of October next, which tax is to be collected for the present year, and accounted for as other public taxes.

XII. And be it further enacted, by the authority aforesaid, that every militia officer employed in carrying this act into execution shall be allowed pay and rations for the time he is in actual service; and every officer failing to comply with the duties of this act shall forfeit the sum of ten thousand pounds, to be collected in the same manner as fines inflicted by the militia law are collected, which fines shall be paid to the county treasurer for the use of the county.

XIII. And be it further enacted, that the sheriff, for levying any warrant directed to him by the colonel or commanding officer, shall be allowed five per cent. for such service.

XIV. And be it further enacted, that no British deserter, Hessian deserter, apprentice, Indian, sailor, or negro slave, shall be received as a substitute for any volunteer or person drafted in consequence of this act; nor shall any such persons (apprentices excepted) be classed or admitted into the service, in order to exempt any of the said classed from a draft.

XV. And be it enacted, by the authority aforesaid, that all persons who shall be drafted by the direction of this law, or voluntarily enlist in the State troops, who do not appear at the place and time of rendezvous, or send an able bodied substitute in his or their room, or in ten days make a sufficient excuse on oath, shall be held and deemed a continental soldier during the war; and in case such delinquents do not deliver themselves up to the colonels of their respective counties, or some continental officer, in thirty days after, they shall be deemed as deserters from that service, and treated accordingly.

XVI. And be it further enacted, by the authority aforesaid, that any person who shall apprehend and deliver, or cause to be apprehended and delivered to a Continental officer, any deserter from the Continental, the State troops service, or delinquent from the militia service, on producing a receipt for the delivery of such deserter or delinquent to the colonel or commanding officer of the county wherein he shall reside, shall be intitled to an exemption from a three months tour of military duty.

XVII. Be it further enacted, by the authority aforesaid, that one hundred

of the men ordered to be raised by virtue of this Act be commanded by a major, three captains, three lieutenants, and three cornets, exclusive of the officers before mentioned in this Act, to be under the command of the said lieutenant colonel commandant, furnished each with a good horse fourteen hands or upwards high, and properly equipped as horsemen: And that each commanding officer of every county within this State be directed to purchase or impress from his respective county two horses, two saddles, two bridles, two hats or two leather caps, two swords, two pistols, and two pair of boots and spurs, for which he shall grant certificates as in all other cases; all of which horses, and before enumerated articles, the said commanding officer of each county shall deliver at the place of general rendezvous at the time appointed in this Act for the delivery of the aforesaid drafted soldiers.

XVIII. And be it further enacted, by the authority aforesaid, that every person drafted by virtue of this Act shall be intitled to the like specific allowances as the men drafted for twelve months, agreeable to an Act of the General Assembly passed at Halifax in February last are intitled to.

XIX. And be it further enacted, that every volunteer or draft who shall faithfully serve the aforesaid term, shall be exempted from all military duty twelve months next ensuing the time of his discharge; and every person finding a substitute as by this Act admitted, shall be exempted from all military duty during the service of the said substitute, and no longer; and that no discharge to any substitute shall intitle such substitute to any exemption whatever.

CHAPTER II.

An Act for continuing the District Auditors of this State, directing their duty in office, and for other purposes.

I. Whereas it is absolutely necessary that the pay due, or which may hereafter be due, for militia duty, and all other claims against the State for articles furnished or impressed, or which hereafter may be furnished or impressed, should be speedily settled, and certificates granted for the same;

II. Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, that a Board of Auditors be constituted and appointed in each of the Districts of Newbern, Wilmington, Hillsborough, Halifax, Edenton, and two for the District of Salisbury, each board to consist of three members, to be composed of the following persons, and a clerk to be chosen by each board respectively, that is to say, James Coor, John Hawks, and William Bryan, Esquires, for the District of Newbern, John Spicer, Sen., William Dixon, and John King, of Bladen, Esquires, for the District of Wilmington, John Macon, William Green, and John Branch, Esquires, for the District of Halifax, Absalom Tatum, Charles Abercrombie, and John Rand, Esquires, for the District of Hillsborough, Edward Everigin, Lawrence Baker, and William Righton, Esquires, for the District of Edenton, Matthew Lock, William Cathey, and David Wilson, Esquires, for the Lower Board, and John Brown, Daniel McKezick, and Alexander Irwin, Esquires, for the Upper Board, comprehending the Counties of Washington, Sullivan, Rutherford, Burke, Lincoln and Wilkes, for the District of Salisbury; and such auditors shall have, and are hereby vested, each board in its respective district, with

LAWS OF NORTH CAROLINA, 1782.

At a General Assembly, begun and held at Hillsborough, on the Thirteenth day of April, in the year of our Lord One Thousand Seven Hundred and Eighty Two, and in the Sixth year of the Independence of the said State: Being the First Session of this Assembly. *Alexander Martin, Esq., Governor.*

CHAPTER I.

An Act for Raising troops to compleat the Continental Battalions of this State, and other purposes.

I. Whereas the time of service of the troops raised to compleat the Continental Battalions of this State by an Act of Assembly passed at Halifax in February, one thousand seven hundred and eighty one, is nearly expired; and whereas it is absolutely necessary the said battalions be immediately compleated, and the common mode of recruiting being found ineffectual;

II. Be it therefore enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That the colonel or commanding officer of each battalion in this State is hereby directed to order the field officers and captains of his battalion to meet at the place by law appointed for the general muster of his battalion, or at some other convenient place, on or before the fifteenth day of June next, and the field officers and captains shall then and there divide the said battalion, officers and men of every rank between the ages of sixteen and fifty included, (his excellency the Governor, Judges of the Superior Courts of Law, Attorney General, Continental Delegates, the Speakers of both Houses of the General Assembly, and Moravians, Quakers, Menonists and Dunkards, who are by law subject to a three fold tax, in lieu of all draughts and military duty, excepted) into classes of twenty men each, after deducting all such as have been captured and made prisoners when in actual service of this or the United States and are now on parole, and all such as have been lately drafted, or have turned out as volunteers in behalf of classes and have performed their respective tours of duty either by personal service, or by hiring a substitute who shall have performed his tour of duty agreeable to law, and all such who are now in the service of this State under an Act for raising troops out of the militia of this State for the defence thereof, provided such exemption be agreeable to the said Act; and provided that all delinquents who have been turned over to the Continental service for desertion or other military offence, within twelve months preceeding the fifteenth day of March last, shall not be included in any class for raising the aforesaid Continental troops if they have actually served the time prescribed by law, and shall produce a discharge from the proper Continental officer certifying the same.

III. And be it further enacted by the authority aforesaid, That the commanding officer of the several regiments within their respective counties in this State shall cause all the inhabitants of their counties between the ages of sixteen and fifty to be enrolled, no respect being had to any exemptions, and hold a court of enquiry to exempt such who are unfit for service, previous to the day directed by this Act for the classing the

militia as aforesaid; and whereas it may happen that a number not sufficient to make a class may be left, after dividing the battalions into classes of twenty, then and in that case, it shall be lawful for the said commissioned officers, field officers and captains, by lot to determine what men shall be of the said number, and to which class each of them shall be added, therein to stand a draft, provided the class to which he may belong do not produce a volunteer on the day of the general muster; and the commanding officer of each battalion of militia shall, within ten days after classing his battalion as aforesaid, order a general muster of his said battalion at the place aforesaid, and shall then and there require each class to furnish one able bodied man, who shall serve in the Continental battalion; belonging to this State for eighteen months from the day of their meeting at such place of rendezvous as is hereafter appointed: And the said volunteers shall be subject to the same rules and discipline, and have the same pay and rations as the Continental troops belonging to this State, from the day of their being inlisted. And in case a sufficient number of volunteers do not then inlist, the commanding officer shall immediately order one man to be drafted from each of the classes who have failed to produce a volunteer, and each of the men so drafted shall be entitled to receive the same pay and rations as if they had inlisted, and shall be obliged to serve in the Continental battalions of this State for the same term, and be subject to the same rules and discipline as the said volunteer, or produce an able bodied substitute on the day, and at the place appointed by this Act for the district rendezvous, which substitute on being approved of by the field officer delivering, and the Continental officer receiving him, shall be entitled to the same pay and rations, and shall be obliged to serve for the same term, and be subject to the same rules and discipline, as the drafted man would have been had he not hired such substitute.

IV. Provided always, That no British or Hessian deserter who hath not been a resident of this State twelve months, or orphan or apprentice under eighteen years of age, Indian, sailor or negro slave, shall be received as a substitute for any class volunteer or draft whatever: And provided further, That no militia officer shall take or receive any person offered as a substitute for any person, then being himself a substitute for any person or class under this Act, on pain of forfeiting for every such offence, the sum of fifty pounds specie, to be recovered by action of debt in any court of record in this State, by any person who will sue for the same, and applied one half to his own use, the other half to the use of the State, and becoming moreover liable to be removed from office.

V. And be it further enacted, by the authority aforesaid, That the field officers and captains shall class the men in such manner that each class may be of equal value, as near as may be, agreeable to the assessment of their taxable property for the year one thousand seven hundred and eighty one.

VI. And be it further enacted, That each and every captain, or other officer commanding the respective companies of militia in this State, shall, previous to the time of classing their battalion, make return on oath to the colonel or commanding officer of their regiment of all the effective men belonging to their companies respectively, under pain of forfeiting fifty pounds specie for each and every neglect or refusal, to be recovered by any person suing for the same, in any court of record in this State, and applied one half to his own use, and the other half to the use of the State.

VII. And be it further enacted, by the authority aforesaid, That the

captains shall return descriptive lists of the volunteers and drafts raised in and from the several classes apportioned to them, to the colonel or commanding officer within five days after such draft, therein specifying the name, size, age, complexion and occupation, of the men so raised, and also the name of the captain from whose company they were taken; and the said commanding officer shall make two fair copies of such descriptive lists, one of which by him, or one of his field officers, to be delivered with the men so raised, on or before the first day of August next, at the district rendezvous, to the Continental officer or other person appointed to receive and take charge of the said men, and shall take a receipt for the delivery of the men on the other; and shall also take a descriptive list in manner aforesaid of all substitutes there offered by drafted men of the battalion to which he belongs, and approved by the persons appointed for that purpose, one fair copy of which list he is required to deliver with the said substitutes to the Continental officer, or other person appointed to receive and take charge of the said men, and shall take a receipt for the said substitutes in like manner as for the said drafts, and one other fair copy of the descriptive list of such substitutes, together with receipts for the volunteers, drafts and substitutes as aforesaid, shall be returned to, if not taken by, the militia colonel or commanding officer of the battalion.

VIII. And be it further enacted by the authority aforesaid, That the men so raised shall rendezvous on or before the first day of August next at the following places, to wit: Those from the District of Salisbury, at Salisbury; from the District of Hillsborough, at Hillsborough; from the District of Edenton, at Winton; from the District of Halifax, at Warrenton; from the District of Newbern, at Kinston; from the District of Wilmington, at Duplin Court House; and those from the District of Morgan, at Ram-sowrs's Mill. And in case any of the said volunteers and drafts should fail to appear at the day and place appointed for the district rendezvous, they shall be considered as deserters, and treated accordingly.

IX. And be it further enacted, That the commanding officer of the battalions shall send a list of the volunteers, drafts and substitutes, to the brigadiers general of their respective districts within fifteen days from the district rendezvous, and the brigadiers general shall, within one month from the receipt of such list, transmit copies thereof to his excellency the Governor for the time being.

X. And be it further enacted by the authority aforesaid, That each and every person who shall voluntarily enter, or be drafted into the said service, or be received as a substitute by the persons appointed for the purposes aforesaid, shall be entitled to have and receive two pair of shoes, two pair of stockings, two shirts, two stocks, one pair of leather or woollen breeches, two pair of over-alls, one waistcoat, one coat, one hunting-shirt, one blanket, one hat, and five yards of tent cloth; which cloathing shall be good and new, and shall be delivered to the said volunteer, draft or substitute, on the day and place of the district rendezvous. And in order to procure the aforesaid cloathing,

XI. Be it enacted by the authority aforesaid, That the said cloathing shall be furnished by the respective classes to the volunteer, draft or substitute, belonging to the said class, in proportion to the assessment of their taxable property for the year one thousand seven hundred and eighty one as aforesaid, on the day, and at the place of the district rendezvous, or before. And in case the said cloathing shall not be delivered to the said volunteer, draft or substitute, on the time aforesaid, the colonel

or commanding officer of the county to which such class so deficient belongs, shall by warrant under his hand appoint two of the ablest men in property in the said class, to procure from the class their quota of cloathing so deficient, and in case the said men so appointed, do not collect the said cloathing in the foregoing proportion, with respect to their assessment, within twenty days from their appointment, then and in that case, the colonel or commanding officer shall issue his warrant to the lieutenant or ensign of the company to which such class belongs, to levy of the goods and chattels of the person so appointed, a sum sufficient to procure such deficient articles of cloathing as aforesaid by sale of the goods and chattels of the said persons, which cloathing shall be appraised by two freeholders on oath, and certificates given to the parties furnishing the same in specie, and shall be received by the sheriff or collector in payment of taxes.

XII. And be it further enacted by the authority aforesaid, That every volunteer or draft faithfully serving, either by himself or substitute the aforesaid term, shall be exempted from all drafts whatsoever for twelve months from the date of his, or his substitute's discharge, provided it be certified on the back of the discharge by the commanding officer of the militia battalion to which such volunteer or draft belonged at the time of his entering the said service, that he has reason to believe the said volunteer or draft has faithfully served as aforesaid.

XIII. And be it further enacted by the authority aforesaid, That any person who shall apprehend or deliver, or cause to be apprehended or delivered to a Continental officer, any deserter from the Continental State troops, or delinquent from the militia service, on producing a receipt for the delivery of such deserter or delinquent to the colonel or commanding officer of the county wherein he shall reside, shall be entitled to receive the sum of four pounds specie, as a reward for apprehending and delivering such deserter or delinquent in full, and it is hereby declared, that no exemptions whatever shall in future be allowed for such service.

XIV. And be it further enacted by the authority aforesaid, That the volunteers and drafts raised as aforesaid, shall be forwarded without delay to their respective places of rendezvous by the commanding officer of the battalions from whence they shall be raised, or by some field officer of his said battalion, by him to be appointed for that purpose as herein before directed, on penalty of one hundred pounds specie, to be recovered by any person for the use of the person so suing.

XV. Provided nevertheless, That any two classes in each regiment who shall produce to the commanding officer of the regiment one good waggon, and team of four good horses, geers and every thing compleat for the road, fit to carry one ton at least, and deliver the same as public property, for the use of the North Carolina brigade, shall be exempt from the draft. And provided also, That if it should happen in any case that more than four classes in any battalion should be desirous of furnishing their proportion of waggons and teams, the preference shall be determined by lot, on the day the men are classed.

XVI. And be it further enacted by the authority aforesaid, That every militia officer employed in carrying this Act into execution shall be allowed full pay and rations for every day he may be in actual service; and each and every militia officer neglecting or refusing to do any or every of the duties by this Act required, shall forfeit a sum equal to three months pay, to be collected in the same manner as fines and forfeitures

inflicted by the militia law, which fines and forfeitures shall be paid to the county treasurer for the use of the county.

XVII. And be it further enacted, That the County Commissioners shall, by order of the commanding officer of the county, deliver to the soldiers raised as aforesaid, rations sufficient to serve them to the district rendezvous, allowing fifteen miles for a days march.

XVIII. And whereas sundry persons employed in the quarter master, commissary, and in other the staff department of the Continental army, claim exemptions from militia duty, and other drafts; Be it therefore enacted by the authority aforesaid, That no person whatever shall claim, or be entitled to the exemption from this draft, under colour of being in the staff department of this, or the United States, except the deputy quarter master general, and deputy commissary general.

XIX. And be it enacted, That the Continental officer receiving the drafts and volunteers in the several districts respectively, shall within twenty days after the first day of August next, make returns to the Governor of the said drafts and volunteers by them respectively received, shewing the numbers for each particular county within such district, as also a particular account of the cloathing and tent cloth with which the said drafts and volunteers are furnished.

XX. And whereas the commanding officers of sundry battalions have failed to deliver their full quota of troops which were to be raised by an Act of Assembly passed at Halifax in February, one thousand seven hundred and eighty one, intituled, An Act to reduce the six Continental Battalions, belonging to this State to four, to compleat the said four battalions, and for other purposes, and amended by an Act passed at Wake County, the last session of the General Assembly, intituled, An Act to compel the counties which have not furnished their quota of Continental troops as required by a late Act of the General Assembly of this State, to furnish the same; Be it therefore enacted by the authority aforesaid, That in addition to the troops to be raised by virtue of this Act, the commanding officer in each battalion which have failed to deliver their full quota of troops on the last twelve months draft, to the Continental officer agreeable to the directions in the before recited Act, are hereby authorized and directed to raise a number of able bodied men sufficient to compleat the whole number apportioned to the battalions respectively of the delinquent classes, under the same rules and regulations, and subject to the same pains and penalties, as are prescribd in the Acts aforesaid.

CHAPTER II.

An Act to compel all persons who have acted as Commissaries or Quarter-masters, in the Militia line of this State, to account for public stores, and for restraining impressments, and for other purposes.

I. Whereas there are in this State sundry persons who have lately stiled themselves State Commissaries, Quarter-masters, Superintendents, &c. and it is found by experience that those persons have committed great abuses and waste, by making unlawful impressments and misapplication of public stores;

II. Be it therefore enacted by the General Assembly of the State of

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